

## Cabinet

### Placarding of Community Events

**Portfolio:** Councillor Garry Perry, Communities and Partnerships

**Service Area:** Public Safety

**Wards:** All

**Key Decision:** Yes

**Forward Plan:** Yes

#### 1. Summary of Report

This report provides an overview of current arrangements to tackle fly-posting across the Borough, and suggests a new framework for authorising placarding to be displayed in local neighbourhood areas advertising certain community events which can operate within the current policy, and it invites Cabinet to approve these proposals to take effect from 1 February 2010.

#### 2. Recommendations

Cabinet is requested to:-

- 2.1 Approve the proposals for authorising the display of placards for certain community events as outlined within this report to take effect from 1 February 2010, to allow time to document and publish the proposed processes, and seek the views of local communities;
- 2.2 Note the role of the Borough's Safety Advisory Group, chaired by Council Officers, in considering public safety issues and in filtering applications for community events where placards may be permitted.

#### 3. Background

- 3.1 Planning legislation can be a slow remedy for combating fly posting, as explained in more detail in **Appendix A**. Additionally, advertising regulations approve some adverts (including some that would be called fly posting by the public). In 2004 a high profile campaign to tackle fly posting across the Borough was undertaken which focused on the removal of fly posting on public land. However, concerns were raised by Community groups in relation to advertising events that have traditionally relied on illegal fly posting.

- 3.2 The Council has responded to the demand for community groups to advertise legitimately. However, there is still a need to provide a mechanism by which it is possible to determine where any community events placards can be posted using agreed circulation.
- 3.3 Election posters are not covered by this report as they fall outside of the relevant regulations. However, Cabinet is reminded that it is agreed council policy not to permit such posters on council owned land and assets. If such posters are affixed, they will be removed.

## 4. Resource considerations

### 4.1 Financial

There is no direct financial impact from implementing these proposals, as the relevant service areas will implement the proposals as part of joint service delivery. There is no proposal to charge a fee to permit placarding to advertise community events as this activity is lawful under the Advertising Regulations providing certain limits are met, and the regulations do not make provision to make such a charge. To reduce any administrative burden, the proposals suggest a means of self regulation, and levying an alternative sanction where too many posters are displayed, where they are displayed in the wrong format, in the wrong place, or too long after an event. It is proposed that for every contravention the community group will have the number of permitted placards reduced for their next event. In this way the introduction of time consuming administrative burdens are reduced.

### 4.2 Legal

Cabinet established the current arrangements for fly posting removal following approval of the recommendations in the Cabinet report 'Delivering A Clean And Green Borough - Tackling Fly-Posting And Fly-Tipping' (20 October 2004) and since that time a "no tolerance" policy has been applied to the removal of fly-posting across the Borough by the Street Pride "Litter Hit Squad", and this has enabled a "good" score to be achieved on the National Performance Indicator NI 195, which considers the cleanliness and appearance of the streets in Walsall.

However, the application of the no-tolerance policy since then has resulted in the removal of posters advertising community events along with other un-authorized fly-posters as there is currently no means of differentiating between authorised placards and fly posters.

The proposals in this report to introduce a mechanism for authorising certain placards for certain community events will enable the current no-tolerance policy to be upheld.

The guidance note in **Appendix B** (part 3) suggests, a range of other opportunities for publicising community events, using approved advertising media and community notice boards.

As set out in section 2 of the report, and subject to developing the detail of establishing criteria for permitted advertising, and determining the mechanism for identifying a limited number of permitted locations, the proposals enable certain

community events to display up to 10 placards in the relevant local area for a period leading up to the community event. However, it may be necessary for larger events, e.g. a carnival to agree an increased limit. They also set out potential penalties where community groups fail to remove the placards on completion of the community event, or if placards are displayed in non approved locations.

It is proposed that details of how to apply for all relevant approvals and licences to run a community event will be developed, to signpost the public across the Council service areas which may be required to give approval, depending upon the nature of the event.

A deferred date is proposed for commencement of the new arrangements to allow sufficient time to prepare and publish easy to understand guidance for the public, which will be available as an information pack from the Council website, and from all service areas where the public may make their first contact with the Council, e.g. Planning Engineering and Transportation, Forest Arts and Events, Green Spaces, Licensing, Street Pride, etc.

### **3. Citizen impact**

The Council is committed to achieving its priorities of improving the overall standard of the environment, improving access and encouraging pride in the borough. Action against fly-posting and its removal helps to improve the image of the borough and build a sense of civic pride.

The ability for certain community events to advertise locally will enable there to be an appropriate impact for local events, and as such the proposals will have a positive citizen impact.

### **4. Community Safety**

Only those community events considered and authorised by the Safety Advisory Group will be permitted to advertise and only in the permitted locations. This group consists of a range of experts from across a range of Council service areas as well as the Police and Fire Service who meet to consider public safety.

### **5. Environmental Impact**

Fly-posting is an anti-social activity, which damages the quality of the environment. Research shows that fly-posting is an early sign of urban decay and can contribute to an environment where there is a fear of crime and in which crime takes hold, particularly if intervention is not prompt and effective.

There is no direct environmental impact arising from the recommendations. It will be possible to maintain the current standards of street cleanliness and action against fly-posting by continuing to remove un-authorised fly posters. There will be only a small number of community event placards in local areas permitted for periods leading up to community events.

## **6. Performance and Risk Management Issues**

It is intended that these proposals will maintain or enhance current performance on NI 195.

## **7. Equality Implications**

These proposals benefit all parts of the community equally. The enforcement approaches used to remove fly-posters are consistently applied across the borough.

The removal of fly-posters from the highway could improve access issues for visually impaired individuals.

## **8. Consultation**

It is intended to seek the views from a range of stakeholders on these proposals, potentially through Local Neighbourhood Partnerships, and to build comments into the new arrangements to take effect from 1 February 2010. Specifically views will be sought around the ease of understanding of information about the processes applicants must go through and permissions to be obtained when organising local events. This information pack will explain when, where and how community events posters can be authorised.

Representatives of the Safety Advisory Group (SAG) will also be consulted in determining suitable locations for community placards, and the relevant criteria for determining which community events may be publicised through local, advertising in this way.

## **9. Background Papers**

Guidance note. Highways Act 1980, Town and Country Planning (Control of Advertisements) Regulations 1992, Anti-Social Behaviour Act 2003

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## Outline of proposals

### 1.0 Background

- 1.1 There is no statutory definition of fly-posting. However, it is generally taken to be the display of advertising material on buildings and street furniture without the consent of the owner, contrary to the provisions of the Town and Country Planning (Control of Advertisements) Regulations 2007. It falls under a number of legal powers and is within the direct jurisdiction of local authorities as part of their planning responsibilities. Local authorities have wide ranging powers to deal with fly-posting and, as with all planning enforcement matters, it is for planning authorities to determine whether to take action and, if so, what form that action should take. However, as detailed within the guidance note included at **Appendix A**, there are other powers in different legislation which also address the removal of fly-posting material.
- 1.2 Planning legislation can prove to be a slow remedy for combating fly-posting as any enforcement action is currently required to be authorised by the Development and Control Committee and requires prosecution, with all the associated activity of a court appearance. The legislation does permit sweeping sanctions on summary conviction under Section 224 of the Town and Country Planning Act 1990 and Regulation 27 of the Advertising Regulations 1992 of up to £2,500 per poster, with a daily penalty of £250 per day for a continuing offence, as amended by the Anti-Social Behaviour Act 2003. Also the Anti-Social Behaviour Act permits authorised officers of local authorities to issue fixed penalty notices for continuing contravention of the relevant Advertising Regulations, although to date this sanction has not been used in Walsall.
- 1.3 However, the Advertising Regulations approve adverts (including some that would be called fly-posting by the public) in certain instances. An example is that travelling circuses and fairs have permission to put up adverts (there are limits on sizes, and the duration of the display, and they must have the permission of the owner of the property) but they must tell the Local Planning Authority in advance. Generally, this notification is not sought, and action could be taken in the courts. However, it is likely the courts would not be sympathetic to a case of such a sort. It is also obvious that there would be significant costs to the Council in such action. Consequently, in practical terms, this is not a cost-effective piece of legislation.
- 1.4 Under the other available powers, a high profile campaign was launched during April 2004 to tackle fly posting across the Borough. The campaign focused on the swift removal of all fly-posters on public land. Steps were also taken to tackle illegal advertising on private sites using 'cancelled' stickers across numerous signs on private land across the borough. Boarding with anti-fly posting surfaces was also introduced in a number of high profile sites within Walsall town centre. Initially, a team of two employees worked on a full time basis on this task and since then the "Litter Hit Squad" has been established to remove fly-posting adverts promptly.
- 1.5 This initiative proved very successful in reducing fly-posting activities across the borough. Feedback from residents has been largely positive. However, some concerns have been raised by community groups in relation to advertising events that have traditionally relied on illegal fly posting.

1.6 To date the Council has responded to the demand for community advertising by promoting the wide ranging opportunities for community groups to advertise legitimately. Community groups are advised that fly posting is not permitted on the highway under any circumstances and that posters will be taken down. They are encouraged to use local advertising locations :

- Shops in their district centres
- LNP community notice boards
- Notice boards in parks, libraries and leisure centres
- Official poster panels in the side of litter bins in some district centres (supply A4 posters to Street Pride)
- Community associations
- Doctors surgeries
- Local schools and playgroups
- Housing offices for social landlords and tenant management groups

1.7 There are also opportunities for placing paid advertising on street lighting columns, on roundabouts etc.

## **2. Proposals**

2.1 A Safety Advisory Group (SAG) made up of officers from across the Council with an interest in public safety, the police and fire service, chaired by the Council's manager of Safety Health and Wellbeing Services (SHAW) meets monthly to consider the safety implications arising from a range of public events across the Borough, and to make recommendations to events organisers. There is a representative from the Council's Licensing service who can respond to any issues where permissions may be required to hold an event in the street, and representatives from Engineering and Transportation and Building Control who have regard to any traffic related issues, street structures etc.

2.2 It is proposed that SAG will consider community events and against agreed criteria, advise the events organisers whether and where any community event placards can be posted. The criteria, to be determined in consultation, will specify, for example, that an event may have say 10 placards posted in agreed locations for a period of say 14 days leading up to the event. To comply with the Advertising Regulations the placards must meet specified sizes for the placard and size of lettering, and the height above the ground. An identifying mark/logo could be used on the placard so that it will be apparent to the Street Pride Litter Hit Squad that they are "authorised" and they will not be removed in their routine patrols of the Borough. However, should placards be found to be displayed in non-approved locations, or significantly before or after the event in question, they will be removed and the number of contravening placards will be deducted from the original total, reducing the number permitted to be displayed for subsequent events. i.e. if 5 contravening placards are left up after an agreed time after the event the next time approval is sought to display placards, the total authorised will be reduced from 10 to 5.

### **3.0 Next Steps**

- 3.1 It will therefore be necessary for SAG to draw up criteria for determining which community events are eligible to display placards, and the number and locations for relevant events. Organisers will have to submit a local neighbourhood map detailing locations for consideration. In order to regulate the number of placards around the Borough, and to identify suitable places for their display, it is likely in the initial stages of the proposed new approach that the number of approvals will be limited, consistent with the need to maintain public safety. These proposals will be the subject of consultation by interested stakeholders. Careful regard will be made of the requirements of the Advertising Regulations in terms of placard size etc.
- 3.2 Coupled with this technical work by SAG, it is also proposed that a sub group be established to:
- develop a community event organiser's information pack, setting out in plain language the key steps to be considered when organising a community event, clarifying where permissions are needed, and explaining where and how any local advertising is permitted. This pack will identify the legitimate publicity opportunities through notice boards etc, and the requirements for community event placards;
  - set out a template of "who does what" in plain language indicating the contribution of the different services in tackling fly-posting, their powers and their responsibilities; this might be developed into a service standard for the public as part of the Council's measures to work more effectively to tackle environmental crime;

This will enable the proposals to be implemented with effect from 1 February 2010.

## **GUIDANCE NOTE** **REQUIREMENTS RELATING TO FLY-POSTING**

### **1. Why has the Council made a policy prohibiting fly-posting?**

#### **1.1 It supports our priorities for a clean borough**

Cabinet (20 October 2004) approved proposals to improve performance in relation to fly-tipping and fly-poster removal in order to contribute towards the Council's priority of ensuring a clean and green borough and encouraging everyone to feel proud of Walsall.

The following proposals that were approved have now been implemented:

- setting up a Litter Hit Squad who remove fly-posting, offensive graffiti and fly tipping
- establishing hire conditions around commercial activities in our public spaces prohibiting un-authorised advertisements (see Town and Country Planning Act requirements)
- promoting use of advertising in libraries, leisure centres and other Council owned buildings, using the Council's web site, working with LNPs to use community notice boards

In addition, since then, the Council has now developed a range of authorised locations for paid advertising, in terms of banner adverts on lampposts and roundabouts.

#### **1.2 The local authority has a legal duty to do so**

There are various laws which regulate display of posters and advertisements in the street, and the responsibility falls to the local authority to enforce them.

- a) The primary response which results in the **immediate removal of fly-posting** is through the **Highways Act 1980** Section 132, where an offending poster may distract road users and create public safety issues. The powers enable the removal of any picture, letter, sign or other mark upon the surface of a highway or upon any tree, structure or works on or in a highway which was so affixed without local authority consent. It is on this basis that the Litter Hit Squad may immediately remove such items without prior notification to the advertiser.
- b) All advertisements require planning consent. The Regulations give permission ("deemed consent") for a range of adverts. As a planning authority the local authority has powers to remove un-authorised advertisements under Regulations made under the **Town and Country Planning Act 1990** Section 224 and 225, but in this case, a 2-day period of notice is required to the advertiser where known, before the advert is removed. Considerations relate to amenity and public safety. There are certain classes of advertisements for which deemed consent is automatically granted subject to certain criteria and limitations and (in some cases) a requirement to notify the planning authority of the proposed location. In all

other instances advertisements require planning consent. The deemed consents mean for example that event posters may be displayed inside premises, such as inside the window glass of shops, libraries and health centres, and also on permitted poster sites.

- c) All traffic signs displayed on the public highway must comply with the requirements of the Road Traffic Regulation Act 1984 and the Traffic Signs Regulations and General Directions 2002. A traffic sign is defined as any object or device (whether fixed or portable) for conveying to traffic on roads or any specified class of traffic, information, warnings, requirements, restrictions or prohibitions of any description.

The two relevant passages from the Regulations are as follows:-

**3D An advertisement—**

- a) announcing any local event of a religious, educational, cultural, political, social or recreational character, or
- b) relating to any temporary matter in connection with an event or local activity of such a character, not being an event or activity promoted or carried on for commercial purposes

In these circumstances

- No advertisement may exceed 0.6 square metres in area.
- No advertisement may be displayed earlier than 28 days before the first day on which the event or activity is due to take place.
- The advertisement shall be removed within 14 days after the end of the event or activity.
- Illumination is not permitted.
- No character or symbol on the advertisement may be more than 0.75 metre in height, or 0.3 metre in an area of special control.
- No part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control.

**3F Temporary advertisements relating to the visit of a travelling circus, fair or similar travelling entertainment to any specified place in the locality.**

In these circumstances:

- No advertisement may exceed 0.6 square metres in area.
- No advertisement may be displayed earlier than 14 days before the first performance or opening of the entertainment at the place specified.
- The advertisement shall be removed within 7 days after the last performance or closing of the specified entertainment.
- At least 14 days before the advertisement is first displayed, the local planning authority is to be notified in writing of the first date on which, and of the site at which, it is to be displayed.
- Illumination is not permitted.
- No part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control.

The deemed consents are also subject to the standard conditions:-

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to –
  - a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - b) obscure, or hinder the ready interpretation of any traffic sign, railway signal or aid to navigation by water or air; or
  - c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

There needs to be a balance between these provisions which might enable community event advertising, and advertising of certain events like funfairs and the requirements of the Highways Act and the need to ensure public safety remain paramount. Any advertising which would meet the planning requirements for deemed consent, that is displayed on the Highway must also be assessed in terms of public safety. The advert regulations assist here because an event poster which is not agreed with land owner is not authorised, and 'owner' can include the Council as Highway Authority. These deemed planning consents are therefore not a complete **authorisation** to display community posters on street furniture, trees etc, and control is possible under the planning legislation or other legislation such as the Highways Act. .

- d) The **Anti Social Behaviour Act 2003** Section 43 enables fixed penalty notices to be issued for a range of offences linked to advertisements in the street for offences under Section 131(2) of the Highways Act 1980 and Section 224(3) of the Town and Country Planning Act 1990.
- e) The **Clean Neighbourhoods and Environment Act 2005** Section 34 enables the local authority to recover the costs associated with removal of fly posting and to consider an identified person whose goods or services are displayed as if they were the advertiser. Defacement Removal Notices can also be served on statutory undertakers and others responsible for street furniture etc. to deal with old posters and remnants of fly posting but where new cases occur action could be taken against the offender using the Town and Country Planning Act 1990.

### 1.3 It is a National Performance Indicator for the Walsall Strategic Partnership

National performance Indicator **NI 195** is concerned with the level of cleanliness of our local environment and measures the percentage of relevant land and highways assessed as having deposits of litter (NI195a), detritus (NI195b), graffiti (NI195c) and fly posting (NI195d). Inspections are carried out 3 times each year across the Borough to monitor the situation. The no-tolerance approach to fly posting following their prompt removal by the Litter Hit Squad has maintained an acceptable NI195d score, although we have identified the need to enhance actions against graffiti.

## 2 Who takes what action to deal with fly posting?

Currently the first response to fly posting on street furniture is for the Litter Hit Squad to remove any posters or advertisements on the highway (see 1.2a).

The street lighting contract with Amey includes a requirement for Amey to remove fly-posting and graffiti within 1-5 days depending on the nature of the defacement.

Contract arrangements are also in place relating to removal of defacement of traffic signals.

Licensing enforcement officers in Public Protection also deal with complaints about A-boards and other advertising which causes an obstruction in the street and primary action results in the removal of the obstructions and advice to business owners.

Planning enforcement deal with complaints about illegal advertisements, but this inevitably takes longer.

No service has yet used powers to serve fixed penalty notices.

## 3 When and where can community groups put posters?

Community groups are advised that fly posting is not permitted on the highway and that posters will be taken down.

They are encouraged to use local advertising locations such as:

- Shops in their district centres
- LNP community notice boards
- Notice boards in parks, libraries and leisure centres
- Poster panels in the side of litter bins in some district centres (supply A4 posters to Street Pride)
- Community associations
- Doctors surgeries
- Local schools and playgroups
- Housing offices for social landlords and tenant management groups

There are also locations for paid advertising on specified lamp posts. High level discussions are also progressing about future application of roundabout sponsorship/advertising. In some cases free advertising may be available subject to there being a baseline of paid advertisers.

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