

DRAFT GUIDE TO TACKLING FLY-POSTING IN THE BRAINTREE DISTRICT

Agenda Item 8(a)

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Background Papers:- Report to Cabinet 5 February 2007 - Scrutiny Panel's Investigation into the Conduct and Use of Enforcement Powers Across the Council's Services - Module 2 (Environmental Protection/Street Scene Enforcement).
Financial Implications:- None
Equalities Implications:- Taken into consideration in BDC approach
Legal Implications:- The Town and Country Planning (Control of Advertisement) Regulations 2007 places a statutory duty on Planning Authorities to address illegal advertisements.
Options: Not applicable
Risks: As outlined within the report.

EXECUTIVE SUMMARY

The attached Guide clarifies the Council's approach to fly-posting and briefly outlines the law relating to the display of outdoor advertisements and what this means for businesses and individuals. It is not intended to be prescriptive, but provides a basic guide on the types of advertisements that are permitted and explains how the Council works with its partners and other agencies to tackle illegal advertisements.

The legislation relating to outdoor advertisements is complex, but in simple terms our approach can be summarised as follows:-

- We will allow temporary advertisements for charitable events and other advertisements with deemed consent or express consent providing all relevant requirements are met.
- We will not tolerate any advertisements that do not have deemed consent or formal planning consent and those that do not fall within the category of advertisements outside our control.
- We will not permit unauthorized advertisements on street furniture (litter bins, street lamps, street nameplates, traffic signs, etc.).
- We will remove fly-posting from public open spaces and highways land within 5 working days of receiving a report.
- Our staff will routinely remove any fly-posting they come across during the course of their work.
- We will educate and promote good practice to discourage illegal advertising.
- We will use enforcement powers against persistent offenders.

- We will work with town and parish councils, police and neighbouring authorities and other agencies to deter fly posting and to tackle persistent offenders.
- We will give professional advice and guidance to any organisation that wants to advertise to ensure that they are acting within the law.
- We will provide a 'quick reference guide' for individuals, charities and community groups wishing to display temporary advertisements for charitable events.

DECISION

That Members approve the attached draft Guide to Tackling Fly-posting in the Braintree District and the draft advisory leaflet entitled Temporary Advertising of Events Held for Charitable Purposes.

DRAFT GUIDE TO TACKLING FLY-POSTING IN THE BRAINTREE DISTRICT

BACKGROUND

In 2006, the Scrutiny Panel carried out a review of the *Conduct and Use of Enforcement Powers Across the Council's Services*, with specific focus on how the Council deals with fly-posting and graffiti. As a result of this review, Scrutiny Panel recommended that the Council's 'zero tolerance' approach to fly-posting be reviewed and formally documented to provide clear advice and guidance on how the Council deals with fly-posting in the Braintree District.

A working group comprising officers from Essex County Council and Braintree District Council's Street Scene and Planning Enforcement was established to undertake this task, in liaison with the Lead Member for Environment and the Chair of the Environmental Policy Development Group, culminating in the production of the attached Guide.

INTRODUCTION

The 'zero tolerance' approach was adopted in November 2004 following consultation with all District Councillors and Parish/Town Councils, the Town Centre Strategy Groups and the local Chambers of Commerce & Industry.

This approach has worked well in reducing roadside clutter and unsightly posters throughout the District, achieving a high level of performance against Best Value Performance Indicator BV199c - % of land and highways from which unacceptable levels of fly-posting are visible. In 2006/7 top quartile performance was achieved (0% against a target of maximum 10%).

No additional staffing resources were made available to implement 'zero tolerance' and so staff dealt with removal in conjunction with their other work when travelling around the District. Ad-hoc reports from members of the public would be logged and dealt with when staff were next scheduled to visit that area. This resulted in illegal advertisements being removed in one area, whilst those in other areas remained until the next scheduled visit by cleansing staff. This, coupled with a lack of understanding amongst the community and the commercial sector about what is and is not acceptable in terms of outdoor advertising, created a perception that the 'zero tolerance' approach was not being applied consistently across the board.

The attached Guide will provide clarity on this issue and help to improve public perception of the service.

ZERO TOLERANCE

Zero tolerance simply means that the Council is fulfilling its statutory obligation to enforce the legislation relating to outdoor advertising as it currently stands.

It applies only to unauthorized advertisements and does not imply that all outdoor advertisements are illegal and will be removed. Some advertisements are excluded from control, whilst others benefit from deemed or express consent. Examples of these can be found at appendices 1 and 2 of the Guide.

Consideration was given to inviting parish/town councils to undertake responsibility for removing fly-posting as part of the Street Cleaning Agreements, but in view of the complexities of the legislation relating to outdoor advertisements, it was felt that this would not be appropriate and could leave them and/or BDC open to claims for compensation should authorized signs be removed in error.

A MORE EFFECTIVE SERVICE

No change is proposed to the 'zero tolerance' approach, although we now have a targeted response time to ad-hoc reports of fly-posting in the same way as for reports of littering, fly-tipping and other environmental problems.

In addition, our capacity to undertake proactive work relating to fly-posting increased with the introduction of the Community Wardens in October last year and this has provided an opportunity for illegal advertisements to be removed more promptly.

Temporary signs for events being held for charitable purposes have 'deemed consent' and should not be removed if all relevant requirements have been met. However, our operational staff have occasionally experienced difficulty in differentiating between commercial and 'not for profit' events, as it is not always obvious from the advertisement. To counteract this problem, the Guide sets out a clear process to follow for those wishing to display signs on the public highway, which will remove any ambiguity. As part of this process, the event organizer will be required to nominate an individual to take responsibility for removing the signs once the event has taken place.

The County Council and District Council have agreed a joint approach in respect of outdoor advertising within the Braintree District and will be working more closely with each other to ensure that any permissions granted are communicated effectively.

Finally, the production of this Guide should help to dispel any misunderstandings about the powers available to the Council to tackle fly-posting and the rules relating to outdoor advertising.

RISKS

1. Authorised advertisements may be inadvertently removed, resulting in compensation claims for loss of business.
2. Breakdown in communication resulting in failure to adhere to advertised approach.
3. Demand for service could exceed supply at certain times of the year, resulting in failure to adhere to advertised approach.

THE GUIDE

The attached Guide clarifies the Council's approach to fly-posting and briefly outlines the law relating to the display of outdoor advertisements and what this means for businesses and individuals. It is not intended to be prescriptive, but provides a basic guide on the types of advertisements that are permitted and explains how the Council works with its partners and other agencies to tackle illegal advertisements. The key elements of the approach are set out in the Executive Summary to this report.

A separate advisory leaflet has been produced for individuals, charities and community groups wishing to display temporary advertisements for events held for charitable purposes. A copy of the draft leaflet is appended to this report.

The final documents will be made available on the Council's website, but a hard copy can be provided on request.

CONSULTATION

Consultation on the content of the Guide took place with all Parish/Town Councils and District Councillors through July to mid-August 2007 and feedback has been taken into consideration in finalizing the draft document.

Discussions have also taken place with Essex County Council and the Highways Agency to ensure that the approach outlined within the Guide is effective and reflects the agreement of all parties.

The draft Guide and leaflet were considered by the three Local Committees in September and received a positive response from Witham and Braintree Local Committees. However, whilst Halstead Local Committee accepted the recommendation, they felt that the Council should adopt a more robust and rigorous approach to enforcement as outlined at appendix 4 of the Guide and have asked that Cabinet reports back to the Local Committees on this issue.

RECOMMENDATION

That Members approve the draft Guide to Tackling Fly-posting in the Braintree District and the advisory leaflet entitled Temporary Advertising of Events Held for Charitable Purposes and that these be published, subject to any amendments agreed.

