

**AGENDA ITEM 8.
EXECUTIVE – 8TH AUGUST 2011
RECOMMENDED ITEM FROM SUSTAINABLE
COMMUNITIES SCRUTINY COMMITTEE**

180. URGENT ITEM OF BUSINESS – FLY POSTING POLICY

The Development Control Manager presented the Fly Posting Policy for Members' consideration.

The purpose of the policy was to provide a consistent response to incidents of fly posting to maintain and improve the quality of the environment. Fly posting was dealt with under the planning advertisement regulations.

The policy applied to any incidents of fly posting within the Bolsover District.

Moved and seconded

RESOLVED that the Fly Posting Policy be accepted,

RECOMMENDED that the Fly Posting Policy be forwarded to the Executive for approval.

(Development Control Manager/Head of Democratic Services)

BOLSOVER DISTRICT COUNCIL

Fly Posting

Date May 2010



This Policy addresses the following Corporate Aims :



COMMUNITY
SAFETY



ENVIRONMENT



REGENERATION

Bolsover District Council Equalities Statement

Bolsover District Council is committed to equalities as an employer and in all the services provided to all sections of the community.

- The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with the Equality Strategy.
- The Council also has due regard to eliminate racial discrimination and to proactively promote equality of opportunity and good relations between persons of different racial groups when performing its functions.

This document is available in large print and other formats from any of the Council offices or by contacting the Chief Executives Directorate on 01246 242323. Please bear in mind we will need a few days to arrange this facility.

If you need help to read this document please do not hesitate to contact us.

Our Equality and Improvement Officer can be contacted via [Email](#) or by telephoning 01246 242407.

Minicom: 01246 242450
Fax: 01246 242423

CONTROL SHEET

Details of Document	Comments / Confirmation
Title	Fly Posting
Document type – i.e. draft or final version	Draft
Location of Policy	Planning
Author of Policy	Chris Doy
Member route for Approval & Cabinet Member concerned	
Reviewed by Director of Development	
Date Risk Assessment completed	
Date Equality Impact Assessment approved	
Partnership Involvement (if applicable)	
Date added to the Forward Plan	
Policy Approved by	
Date Approved	
Policy Review Date	
Date forwarded to CSPD (to include on Intranet and Internet if applicable to the public)	

1. Introduction

1.1 Fly- posting is illegal, unsightly and unwanted. It detracts from the general environment of the area and the quality of life of residents and visitors to the area. It can discourage business investment and contribute to the “fear of crime”. The removal of illegal posters is both costly and time consuming.

1.2 This policy is produced under the powers that are available in Sections 224, 225 and 324 of the Town and Country Planning Act 1990 as amended; the Town and Country (Control of Advertisements)(England) Regulations 2007, S31 of the Clean Neighbourhoods and Environment Act 2005, S132 of the Highways Act 1980 in respect of the Highway Authority, and any Act or Regulation which amends or replaces them.

2. Scope of the Policy

2.1 Fly-posting is defined as the display of advertising material on buildings, structures, street furniture, etc. without the consent of the owner, contrary to the provisions of the Town and Country Planning Advertisement Regulations.

2.2 There are a number of advertisements that may be regarded as fly posting but which in fact have a deemed consent under the Advertisement Regulations (i.e. they do not need permission from the Council). These can, subject to limitations, include events for local charity, church, school and political events, agricultural demonstrations, and travelling circus or fair. In all cases the advertisement should only be displayed with the land owners consent and must not endanger the public.

2.3 Where an advert is displayed under these regulations and the Council is made aware of their display they will be checked and monitored by the Council for compliance with the limitations of the Regulations. If at any point the Regulations are exceeded then any such advert will be treated under the same procedure as fly posted signs in this policy. Details of the deemed consent limitations and standard conditions can be found in the Town and Country (Control of Advertisements)(England) Regulations 2007.

2.4 The policy applies to any incident of fly-posting within the Bolsover District

(Please note Graffiti is dealt with under a separate policy and reporting procedure.)

3. Principles of the Policy

3.1 The requirement to remove all fly-posting is to protect and re-instate the environmental quality of the area which supports the Council's Corporate aim to promote and enhance a clean and sustainable environment.

3.2 The Council is mindful of the needs of businesses and where applicable will negotiate and advise on the provision of appropriate alternative means of advertising and signposting.

4. Policy Statement

4.1 The Council will aim to inspect all reported cases of fly-posting within 5 working days of the matter being reported.

4.2 Where it is established that the display is unauthorised in accordance with the Regulations and that it is detrimental to the amenity of the area or to highway safety, the Council will start the appropriate action to secure the removal of fly-posting following the process referred to in paragraphs 4.4 to 4.12 below within 24 hours.

4.3 If repeat breaches occur in respect of the same perpetrator or persons who benefit from the display, such as an event organiser or shop, then (after an initial warning) evidence will be gathered in respect of the displays and the Solicitor to the Council will be instructed to prosecute.

Fly Posting on Highway and Utility structures, street furniture and land

4.4 In respect of advertisements on highway structures etc. and land the relevant Highway Authority, most often Derbyshire County Council but also The Highways Agency (in respect of the M1 and M1 Junctions 28 and 30 and A38 west of junction 28), or Utility Company will be notified and requested to take action to secure removal under their own powers within 3 working days (or such other period as may be reasonably agreed with the relevant organisation and the case officer).

4.5 If the relevant highway body or utility does not co-operate then consideration will be given to serving a defacement removal notice under S31 of the Clean Neighbourhoods and Environment Act 2005. (This clause will not be effective until the Council's constitution and the delegation scheme have been amended).

Fly Posting on Bolsover District Council Property

4.6 For fly posting on District Council property the person responsible for the display will be requested to remove the offending sign within 3 working days, following which the Council Department responsible for the property will be requested to remove the sign.

4.7 Placards and posters and signs will be stored at either the Council Offices in Bolsover or the Riverside Depot for 5 days after which all material will be destroyed. Where the owner is known they will be advised how to arrange collection should they wish to retrieve their property.

Fly Posting on Private Property

4.8 For fly posting not on highway, utility structures etc and land or Bolsover District Council property the person responsible for the display, or benefitting from it, will be requested to remove the offending sign within 3 days. If they are removed within that time no further action will be taken; the perpetrator will be advised that any repeat display will be likely to result in a prosecution. Details of the offender will be recorded and the records kept for three years, for the purposes of identifying any repeat breaches.

4.9 Where adverts are attached to private property we will contact the owner or other person responsible for the property and request that they remove the sign within 3 days. If they fail to remove the signs then the Solicitor to the Council will be instructed to prosecute.

4.10 If the fly-posting is not removed the District Council will remove the placards or posters provided it can be done without damage to the private property.

Fly Posting on Private Property of Unknown Ownership

4.11 Where there are no contact details, or obvious beneficiaries of the display and no details of the land owner or persons with control of the land or buildings, and, despite reasonable enquiries, none can be found, the sign will be removed immediately if possible or within 3 working days if assistance is required, provided it can be done without damage to the private property. Signs will be stored at either the Council Offices in Bolsover or the Riverside Depot for 5 days after which any posters will be destroyed.

Recovering Costs

4.12 In all cases where the District Council has removed the fly posting itself it will recover its reasonable costs in removing and storing such fly-posting before any material will be released for collection.

5. Responsibility for implementing the Policy

Reporting incidents

5.1 The details required to assist in the investigation of complaints are:
the location of the fly-posting;
the nature of the material (is it offensive, a nuisance, a safety hazard);
who or what is being advertised if known;
any other pertinent details such as contact information if known.

5.2 Incidents of fly posting on highway structures (see para. 4.4 above) should be reported to Derbyshire County Council using either phone 08456 058 058; or e-mail call.centre@derbyshire.gov.uk

5.3 All other incidents of fly posting should be reported to Bolsover District Council using either the Planning Enforcement Enquiry Form or the Eyes and Ears Reporting Form or by telephoning 01246 242424.

Assessing and Monitoring of breaches

5.4 For those cases which are the responsibility of Bolsover District Council to investigate whether the display breaches the Regulations will be assessed by the Planning Case Officer under the normal unauthorised development complaint procedures. The same officer will also be responsible for undertaking or arranging for monitoring of deemed consent displays to ensure that any limitations in the regulations are not exceeded.

5.5 In assessing the impacts and appropriate action in respect of all incidents of fly-posting the Council will have regard to:
Communities and Local Government Circular 03/2007 "Town and Country Planning (Control of Advertisements) (England) Regulations 2007;
Communities and Local Government "The Good Practice Guide on the Control of Fly-Posting" (2000)

Removing fly-posting

5.6 For those cases which are the responsibility of Bolsover District Council to investigate if the fly posting is not removed by the perpetrator, beneficiary, land owner, or persons with a controlling interest in the land it will normally be the Planning Case Officer, but can also be removed by the CAN Rangers or Street Services staff under the instruction of the Planning Case Officer.

5.7 All cases on highway or utility structures etc or land will be the responsibility of the owner of the relevant body if the sign owner has not removed it.

Taking legal action

5.8 Solicitor to the Council will be responsible for issuing proceedings.

Recovery of Costs

5.9 Recovery of costs will be in compliance with the District Councils financial regulations.