



CHEL TENHAM
BOROUGH COUNCIL

Enforcement procedure – “Fly-posting”

November 2015



1. Background

- 1.1 There is no formal definition of “fly-posting”. However, it is generally taken to be the display of advertising material on building and street furniture without the consent of the owner(s), contrary to the provisions of the Town and Country (Control of Advertisements)(England) Regulations 2007 (the Regulations).
- 1.2 There are a number of advertisements, which although perceived as fly-posting, can in fact be displayed with deemed consent under the Regulations. These advertisements can, subject to limitations and proper notifications and approach include events for a local charity, church, school & political events, and a travelling circus or fair. In all cases the advertisement should only be displayed with the land owners consent and must not endanger the public or highway safety.
- 1.3 Where advertisements are displayed under the 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-posting under this policy.
- 1.4 The aim of controlling fly-posting is to support one of the four priority outcomes of the Council’s Corporate Strategy to protect and enhance Cheltenham’s Environmental quality and heritage.

2. Why is it a problem?

- 2.1 Fly-posting is illegal, unsightly and unwanted. It detracts from the general environment, affects the quality of life of residents and visitors to the area and can cause a distraction to drivers. If the Council does not control fly-posting, the adverts become damaged and tatty appearing even more unsightly and potentially causing litter as well as being potentially dangerous. In addition, the businesses involved are gaining an unfair advantage over their law-abiding competitors.

3. Reporting fly-posting

- 3.1 All reports of fly-posting should follow these steps:
 1. Member of the public / elected member / officer of the Council noted “fly-posting” and reports it to planning enforcement via planningenforcement@cheltenham.gov.uk (with photo if possible);
 2. A case is created on Uniform (planning enforcement module) and is allocated to an officer;
 3. Visit undertaken by planning enforcement (if no photo provided) to establish beneficiary event / venue;
 4. If details of beneficiary event / venue are displayed

- contact should be made with the event organiser to arrange removal including fixings (i.e. plastic ties / sticky tape, etc) – 48 hours notice is considered a reasonable timeframe for removal;
5. If no details of beneficiary event / venue are provided or the “fly-post” is being displayed after a request has been made to remove a “fly-post”, planning enforcement officer may remove the “fly-post” or alternatively request a Community Protection Officer to remove the “fly-post” especially if numerous or specialist equipment / vehicles are required – If removed the “fly-post” will be retained by planning enforcement for 10 working days;
 6. It is Council policy to seek to recover any costs incurred with the removal of “fly-posting” and commence prosecution proceedings where considered expedient to do so.
- 3.2 The planning enforcement team look to other Council Officers to bring attention to any potential “fly-posting”. These reports should follow the above steps.
- 3.3 Council Officers are also asked to, where safe to do so, to remove and dispose of any expired planning / licence publications.

4. Legal Powers / Legislation

- 4.1 Under section 224 of the Town and Country Planning Act 1990 it is an offence for any person to display an advertisement in contravention of the regulations. The relevant legislation is contained in the Town and Country Planning (Control of Advertisements) Regulations (England) 2007. Any person contravening the legislation is liable on summary conviction to a fine, currently not exceeding £2500. This was increased under the provision of the Anti-Social Behaviour Act 2003. In the case of a continuing offence there is £250 for each day on which the offence continues after conviction.
- 4.2 Under section 132 of the Highway Act 1980 it is an offence for any person to paint or in anyway inscribe or affix any picture, letter, or sign on the surface of a Highway, any tree, or structure without consent of the Highway Authority. If guilty of an offence the person can be liable to a fine of up to £1000, in the case of a second offence up to £2500.
- 4.3 Under the Town and Country Planning Act 1990 a person is deemed to display an advertisement if they are the owner or occupier of the land on which the advert is displayed, or the advert is publicising their business. In both cases these persons cannot be held liable if they can prove that the advert was displayed without their knowledge or consent

5. What can be done?

- 5.1 The Planning Act allows Council officers to remove or obliterate any placard or poster displayed in contravention of the Advertisement Regulations. This can be done:
- Without notice where the item does not identify the person who displayed it and they cannot be identified after reasonable inquiry; and
 - After providing 48 hours notice where this information is given on the poster.
- 5.2 Legal measures to prevent fly-posting include:
- Prosecution in a magistrates' court;
 - Charging the offender for the cost of removing the posters

6. Examples of fly-posting

- 6.1 Fly-posting can be divided into three broad types, each with their own characteristics and problems of control:
- 6.1.1 Adverts primarily for local events, often photocopies put up in large numbers on a regular basis. These may advertise bands playing in pubs, or car-boot sales. They may be attached to lampposts, railings and street furniture or pasted on buildings;
- 6.1.2 Posters advertising products of large organisations and put up by professional poster 'companies'. These are usually large high quality, colour posters, such as for record releases. They are often pasted on vacant buildings and signal control/telecoms boxes;
- 6.1.3 Posters displayed by pressure groups or political bodies. These are generally ad hoc and sporadic with no clear pattern to their location.
- 6.2 Important exceptions (to the requirement for consent) include adverts:
- 6.2.1 by a religious, educational, cultural, recreational, medical or similar institution on the premises which it is advertising. (max 1.2 sq. m);
- 6.2.2 for the selling/renting of the property on which the advert is located (residential max 0.5 sq. m, other max 2 sq. m);
- 6.2.3 for any local religious, educational, cultural,

- political, social or recreational event for non-commercial purposes (<0.6sq. m);
- 6.2.4 for a travelling circus or fair (max 0.6 sq. m); and
- 6.2.5 any advert about building operations upon the hoarding around the land advertised

6.3 The following exemptions will apply:

- 6.3.1 Planning & licensing notices;
- 6.3.2 Notices of events / banners publicising an event for a charitable purpose. These must have the prior consent of CBC and may be placed in agreed locations for a period not exceeding 14 days and must be removed within 48 hours of the end of the event (including any fixings).
- 6.3.3 Functional advertisements of Government departments, local authorities, public transport and statutory undertakers.