

EAST HERTS COUNCIL

EXECUTIVE - 6 DECEMBER 2011

REPORT BY EXECUTIVE MEMBER FOR  
COMMUNITY SAFETY AND ENVIRONMENT

FLYPOSTING POWERS FOR TOWN COUNCILS

WARD(S) AFFECTED: Bishop's Stortford, Buntingford, Hertford,  
Sawbridgeworth and Ware wards

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**Purpose/Summary of Report**

- To enable the Executive to consider the issues involved with enabling the Town Councils in the district to take up fly-posting removal powers.

<b><u>RECOMMENDATION FOR EXECUTIVE:</u> that</b>	
<b>(A)</b>	<b>the Director of Neighbourhood Services be delegated authority to pursue an agreement, the purpose of which will be to enable Town Councils to take up fly-posting removal powers, generally in accordance with the suggestions set out in this report and in consultation with the portfolio holder for Community Safety and Environment.</b>

1.0 Background

1.1 Executive members will recall that this matter was considered at the 6 September 2011 meeting of the Executive. Subsequent discussions with the Town Councils have indicated that the approach followed (namely sole responsibility by the Town Council) was not preferred. This report advocates a shared responsibility approach.

1.2 Whilst there is no universally agreed definition of fly-posting, it is generally understood as any adverts which are displayed without the necessary consent under the Town and County Planning Acts. Its usual manifestation is in signs, banners, adverts which appear

for a temporary period, often affixed to highway furniture, roadside fences etc and which advertise local events. It is generally held that such adverts, and certainly a proliferation of them, are unsightly and have a harmful impact on amenity.

- 1.3 The Council has powers to control fly-posting, principally under s224 and 225 of the Town and Country Planning Act 1990. These powers enable the removal of unauthorised adverts and the prosecution of those which have undertaken the advertising.
- 1.4 The extent to which the powers are exercised is dealt with through management decisions. These take into account the degree to which it is considered that fly-posting is currently a problem reflected in part by issues which are raised with officers by local residents and Town and Parish councils. Prosecutions are generally rare, as they are time consuming and resource intensive. Removal takes place on a regular basis.
- 1.5 Because the purpose of fly-posting is to maximise publicity for a particular event, etc, it tends to be located in the urban areas. Problems are also experienced however alongside main transport routes and at major junctions, which can be in the rural areas. Villages tend not to experience the problem to any great extent, but it does occur.

## 2.0 Report

- 2.1 The Town Councils in the district have expressed a desire to assist with the implementation of the powers available in respect of fly-posting removal. It is not anticipated that it is necessary for Parish Councils to become involved in this work and regardless of any decision in relation to the towns, the District will continue to provide the service in all areas outside the towns. If the trial is successful in the Towns, the Council will consider extending the scheme to Parish Councils. If Town Councils do wish to take up these powers, there will be resource implications for them. However, it is not mandatory for them to take up the powers and the District Council will continue to provide the service if they do not wish to do so.
- 2.2 There are a number of implications to be considered in determining whether to enable the Town Councils to take on these powers. They are set out in the next few paragraphs with a way forward suggested.

- 2.3 **Responsibility:** Officers are of the view that it is generally clearer for the public when one tier of local government undertakes a function. However, in this case, the Town Councils are keen to operate on the basis that their input would support the service provided by the District Council. It is therefore suggested that an agreement be formulated that enables Town Councils to take on this function, on behalf of the District, but that the District will still undertake it also. A review period will be built in to any agreement such that the approach can be amended if it is proving impractical.
- 2.4 **Approach:** Whilst adverts displayed for the purpose of local community events, arts, culture and for charitable organisations are generally supported by the local community, they have the same potential to create visual amenity problems as any unauthorised advert. Council officers have endeavoured to pursue the same approach to the removal of all adverts.
- 2.5 Town Councils are often involved with the undertaking of local community events and reasonably would generally support them. They may find themselves in a position of some conflict where they would be less inclined to undertake removal of adverts for a local event that is well regarded and certainly where one is supported by it. It is suggested that, for powers to be shared with it, the interested Town Council should be required to set out the approach it would take to the matter. This should include details of the service that the Town Council will provide to the public – receiving complaints with regard to fly-posting etc. They can be advised and guided by Council officers in this.
- 2.6 **Legitimacy:** It is clear in most cases when adverts displayed are without the benefit of consent – therefore unauthorised. Clearly the removal of an authorised advert would be inappropriate. It is suggested that Town Councils be required to approach the District Council where there is any doubt with regard to the legitimacy of adverts, prior to any action being undertaken.
- 2.7 In any further details that are provided, if this matter is supported in principle, it will be set out that Town Councils should only take action in relation to adverts which can be readily removed. ‘Pasted on’ adverts should generally not be tackled because of the difficulty of removal, because of the residue which can remain after removal (which still has an amenity impact) and because of the greater possibility of damage to the structure to which it was affixed.

- 2.8 **Storage and Return:** Removal of unauthorised adverts cannot be undertaken in isolation. The legislation requires that removed adverts, which remain the private property of the advertiser, should be retained and, where possible, be returned if the party which displayed them can be identified or comes forward to claim them. Town Councils will therefore need to undertake to store and return adverts which they have removed. It is suggested that a requirement to do this is contained in any agreement transferring these powers.
- 2.9 **Dispute resolution:** Clearly fly-posting removal is an area where there is significant room for disagreement. Local residents may feel aggrieved at the amenity impact of unauthorised displays and there are often strong views associated with their removal. These can be both in favour and against. Those who displayed adverts, often in ignorance of the relevant legislation, will express strong views, particularly if removal is perceived to have impacted on the success of the event to which they relate.
- 2.10 It would be necessary for Town Councils to ensure they are both willing to take on the responsibility for dealing with such disputes and have appropriate mechanisms in place to do so. It is suggested that any agreement transferring powers sets out the necessary requirements.
- 2.11 So that the Town Councils have a full and clear understanding of the above and other related matters, it is suggested that a training event is offered, and should be taken up by any Town Council, before powers are transferred to it.
- 2.12 Lastly, whilst this is primarily a matter for any Town Council which takes on these powers, safe working practices must be implemented. Fly-posting is usually displayed on the highway and attached to highway furniture. They can be at height. Traffic speeds, crossing roads and road margin areas all present hazards. Town Councils which undertake these powers must ensure they have adequate insurance, safe working practices in place and procedures which ensure there is no damage to the structure from which the advert is being removed..

### 3.0 Conclusion

- 3.1 A model agreement is not attached to this report. However, authority is sought for such an agreement, which enables Town

Councils to exercise these powers, in support to the District, to be formulated by officers in consultation with portfolio holder for Community Safety and Environment. Once formulated officers will consult Town Councils on the documentation and where there is an expression of interest in taking up the powers, offer training.

#### 4.0 Implications/Consultations

4.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers

None

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## ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p><b>Fit for purpose, services fit for you</b> <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p><b>Pride in East Herts</b> <i>Improving standards of the built neighbourhood and environmental management in our towns and villages.</i></p>
Consultation:	Town Councils
Legal:	An agreement framed in legal terms will be drawn up to ensure that the parties are clearly aware of their responsibilities.
Financial:	<p>There are no extensive financial implications for the Council. Officer time would be expended in drawing up the necessary documentation and offering training.</p> <p>Town Councils would be expected to meet any costs associated with the powers if they exercise the opportunity to take them up.</p>
Human Resource:	None
Risk Management:	There is a risk of inappropriate use of the powers where they are transferred to another party. Monitoring and the ability to retrieve the powers (which would be included within agreements) would ensure that this risk is minimised.