

The Control of Fly-posting: a Good Practice Guide

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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Summary

This guide provides local authorities and other agencies with a 'manual' to assist them in controlling fly-posting in an effective and efficient way. It combines an explanation of current legal procedures with practical examples of successful action taken by authorities, as well as steps that can be taken to limit the incidence of fly-posting.

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Contents

[Preface](#)

[1. Introduction](#)

[2. Legal Framework](#)

[3. General Good Practice: Organisation And Management](#)

[3.5 Implementation of the Combined, Corporate Approach to Fly-posting](#)

[4. Prosecution](#)

[5. Removal](#)

[6. Prevention](#)

[7. Formalised Sites](#)

[Appendix A](#)

[Town and Country Planning Act 1990/91](#)

[Advertisements](#)

[Commentary](#)

[In England:](#)

[In Wales:](#)

[General Note](#)

[Introduction](#)

[The Offence Of Unauthorised Display Of An Advertisement](#)

[Commentary](#)

[Allocation of Functions](#)

[Part II Highways Act 1980 Part IX \(ss.131-134\) Unauthorised marks on highways](#)

[Appendix B](#)

[General Good Practice: Organisation and Management](#)

[Appendix C](#)

[Prosecution](#)

[Appendix D](#)

[Prevention](#)

[Appendix E](#)

[Useful Contacts](#)

Preface

This Good Practice Guide was commissioned by the Department of the Environment, Transport and the Regions in 1999. The research was undertaken by Arup Economics and Planning and was carried out by Pritej Mistry, Michelle Kirby (Project Manager), Gwilym Jones (Director), Deborah Sacks (Advisor) and Christine Macmillan.

The research would not have been possible without the willing co-operation of local authorities (contacts and addresses are listed in Appendix E), the Outdoor Advertising Association, Tidy Britain Group and the Association of Town Centre Management.

Go to table of contents

1. Introduction

1.1 The Purpose of this Guide

This Good Practice Guide has been prepared by the DETR to provide local authorities and other agencies with a manual to assist them in controlling fly-posting in an effective and efficient way. The Guide combines an explanation of current legal procedure with practical examples of successful action taken by authorities, as well as steps which can be taken to limit the incidence of fly-posting.

The Guide is divided into a number of sections each dealing with different aspects of control together with appendices providing other useful information.

What is Fly-posting?

There is no formal 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 Regulations*. In practical terms, fly-posting can be divided into three broad types, each with particular characteristics and problems of control:

- (i) Advertises primarily for local events, often photocopies put up in large numbers on a regular basis. These may advertise bands playing in pubs, car-boot sales and fairgrounds. They may be attached to lampposts, railings, and street furniture or pasted on buildings.
- (ii) Posters advertising products of large organisations and put up by professional poster companies. These are usually larger (8/16 sheet), higher quality, colour posters, such as for record releases or national events. These are often pasted on vacant buildings and signal control/telecoms boxes
- (iii) Posters displayed by pressure groups or political bodies. These are generally ad hoc and sporadic with no clear pattern to their location.

There are other types of unauthorised advertisements (such as hoardings, A boards and business cards displayed in telephone boxes) which fall outside the normal definition of fly-posting. The control of these is outside the scope of this Guide.

Fly-posting occurs in most locations but is particularly prevalent and prominent in urban areas. It can be unsightly and is often seen as symptomatic of [urban] decay. With increasing attention on the quality of life and the built and natural environment, there is increasing emphasis being placed on addressing issues such as fly-posting.

A review of the organisation of the fly-posting industry and alternative methods of control can be found in **The Control of Advertisements: Fly-posting (DETR 1998)**.

Figure 1: Fly-Posting In London (see link to the right)

Why Fly-post?

Fly-posting can be cost-effective, have a high impact and is often regarded as creating and reflecting a particular image for a product. For small local events fly-posting on street furniture can provide a cheap and effective way of getting publicity. To advertise records or other similar products, a fly-posting campaign for a two week period covering an urban area might cost £1-£1.50 per 4 sheet (60" x 40) poster, whereas a two week campaign using 48 sheet hoardings might be in the order of £1,400 (excluding printing). There is clearly a significant financial advantage in using fly-posting. Fly-posting an area can also achieve saturation coverage (albeit for short periods of time) giving a product an immediate presence. The immediacy offered by fly-posting can also be attractive to particular types of product, such as record releases, which have a limited shelf life.

Fly-posting is also used to target particular markets and give a product a particular image. The slightly risqué nature of fly-posting is regarded by some as a positive feature of this form of advertising when compared with more mainstream/legal advertising media.

Added to these advantages is the fact that effective control can be difficult. This Guide therefore aims to provide local authorities with good practice pointers that should assist in improving methods of control. It is not a substitute for existing guidance (set out in the **Annex to Circular 5/92**), legislative provisions (principally **s.224 and s.225 of the Town and Country Planning Act 1990** and s.132 of the Highways Act 1980) or Statutory Instruments (**Town and Country (Control of Advertisements) Regulations 1992**) and reference should be made to these before taking action against fly-posting.

[Go to table of contents](#)

2. Legal Framework

2.1 Introduction

There are a number of pieces of legislation under which fly-posting can be controlled. The principle mechanism is s.224 and s.225 of the Town and Country Planning Act 1990. However, other powers exist under the Highways Act 1980 and local legislation. This section outlines the main legal provisions for the control of fly-posting. These are covered in more detail in the following sections of this Guide. A summary of other powers is provided in Appendix A.

2.2 Town and Country Planning Act 1990 Prosecution

S.224(3) of the 1990 Planning Act makes it an offence for any person to display an advertisement in contravention of the Regulations. The relevant regulations are the **Town and Country Planning (Control of Advertisements) Regulations 1992 (the Advertisements Regulations)**. Where an offence is proven the contravener shall be liable on summary conviction to a fine, currently not exceeding £1,000 (level 3 on the standard scale) and, in the case of a continuing offence, £100 for each day during which the offence continues after conviction. This provision applies to all types of unauthorised advertisement and not exclusively to fly-posting.

Under **s.224(4)** a person shall be deemed to display an advertisement if they are:

- the owner or occupier of the land on which the advertisement is displayed; or
- the advertisement gives publicity to his goods, trade, business or other concerns.

However, in both cases, a person shall not be guilty of an offence if they can prove that the advertisement was displayed without their knowledge or consent (**s.224 (5)**).

The case of *Preston v British Union for the Abolition of Vivisection (1985)* established that beneficiaries of fly-posting were liable for prosecution once they had knowledge of their existence. However, the case of *Merton v Edmonds (1993)* clarified the law in respect of the need to show both knowledge and consent. In the judgement it was held that the words knowledge or consent were to be read disjunctively ie, both knowledge and consent had to be proven. To be liable for prosecution on the basis of knowledge alone was held to be contrary to the fundamental principles of criminal law. This decision has been followed in subsequent cases (*Wycombe DC Michael Shanly Group Ltd*).

On a separate matter of interpretation, in the case of *O'Brien v Croydon London Borough Council (1999)* it was held that a notice under s.224(3) should be served on both the person whose goods were being advertised as well as the owner of the property on which the advertisement was displayed. However, the courts held in favour of the local authority as the appellant had suffered no prejudice by failure to serve on the advertiser.

Removal

Rather than prosecute via the magistrates court under s.224 of the 1990 Planning Act, **s.225(1) allows local authorities to remove or obliterate any placard or poster displayed**

in contravention of the Advertisements Regulations. This can be done:

- without notice where it does not identify the person who displayed it and he cannot be identified after reasonable inquiry, and
- after providing two days notice where this information is given on the poster.

Further Guidance

Paragraphs 51-56 of the Annex to DOE Circular 5/92 provide guidance to local authorities on appropriate steps in taking action under s.224 and 225 of the 1990 Planning Act. The guidance identifies steps local authorities might take to enforce against unauthorised advertisements using available powers in the 1990 Planning Act. This covers guidance on the collection and recording of information to counter the statutory defence regarding knowledge and consent and thereby secure a successful conviction for fly-posting under s.224, as well as steps to be taken before removing a poster under s.225.

Prosecution under s.224 is dealt with in more detail in Section 4 of this Guide and removal under s.225 in Section 5.

2.3 Highways Act 1980

Section 132(2) of the Highways Act 1980 makes provision for the highway authority to remove any picture, letter, sign or other mark painted, ascribed or affixed on the surface of the highway, or any structure or works on or in the highway. This provision encompasses fly-posting on street furniture and gives authority to remove posters without notice.

2.4 London Local Authorities Act 1995

This legislation came into force in November 1995 and replaces sub-sections (3), (4) and (5) of section 225 of the 1990 Planning Act whereby London Boroughs have an expedited procedure for removing unauthorised posters.

Under this provision London Boroughs may give notice in writing to a person who displays (or causes to be displayed) a placard or poster in contravention of the Advertisements Regulations:

- requiring the removal or obliteration of the placard/poster not less than two days from the date of the service of the notice; and
- if they do not do so that the authority intend to remove or obliterate the poster after expiry of the period and recover from them the reasonable costs incurred in doing so.
- This provision places the onus of removal of the poster onto the person responsible and introduces a mechanism for cost recovery by the local authority if they have to remove the poster.

Further, if a poster is removed or obliterated (pursuant to a duly served notice), but within 28 days another poster is displayed on the same premises, the authority may after serving a further notice, remove the poster (sub-section (5)). Alternatively after removing the poster, the

authority may with the owners consent put up a notice stating that it is an offence to display an advertisement in contravention of the Advertisements Regulations.

The following sections of this Guide focus on the practical aspects of controlling fly-posting under existing legal provisions, drawing on good practice examples from a range of authorities.

Good Practice Box 1: Legislation, Statutory Instrument and Guidance

Legislation

s.224 and 225 of the Town and Country Planning Act (1990)

s.132 of Highways Act (1980)

Statutory Instruments

Town and Country Planning (Control of Advertisements) Regulations

1992

Guidance

Annex to Circular 5/92

The Control Advertisements: Fly-posting. DETR, 1998

[Go to table of contents](#)

3. General Good Practice: Organisation And Management

3.1 Introduction

Local authorities use a variety of methods to control fly-posting in their areas. For the purpose of this Guide these have been divided into four main approaches:

- **Prosecution** through the magistrates courts (principally under the 1990 Planning Act or 1980 Highways Act)
- **Removal** under the same legislation
- **Prevention** using particular site treatments
- **Formalised Sites** through the approval of specified sites where posters may be displayed with the sanction of the local authority

In succeeding sections of this Guide the relevant legal provisions together with good practice pointers and examples specific to each of these approaches are set out.

This section identifies good practice messages generally relevant to each method of control. These aim to provide those involved in the control of fly-posting with a series of general guidelines to consider when devising and implementing initiatives in their area.

3.2 Best Value and Making the Case for Control

Fly-posting is an illegal activity, and local authorities are encouraged to use measures to control it. Nevertheless, given pressure on local government resources local authorities need to be able to justify expenditure on the control of fly-posting.

Authorities have approached this issue in a number of ways. Some have presented the control of fly-posting as part of town centre management and regeneration. With the increasing emphasis on environmental quality, the control of fly-posting is one of a large number of initiatives that seek to implement the Governments agenda on urban renaissance. Other authorities have quantified the time input involved to demonstrate the relatively low level of resources committed to the control of fly-posting relative to other enforcement action.

3.3 A Combined Approach

Evidence from surveys commissioned by the DETR indicates that a common feature of effective local authority action to control fly-posting is the use of a combination of legislative powers rather than reliance solely on one course of action. There are examples of authorities following all four identified approaches to the control of fly-posting; that is, prosecution, removal, prevention and formalised sites. In addition, the use of the combined powers under different pieces of legislation (1990 Planning Act, 1980 Highways Act) often provide an effective system of control.

Pursuing a combined approach has a number of advantages, the main one being that it

provides authorities with greater flexibility to control fly-posting using mechanisms appropriate to different circumstances. In other words, not only is the authority **reacting** to fly-posting as it occurs through prosecution and removal, but it is also adopting a more **proactive** stance, in seeking to stop fly-posting from occurring through prevention and the provision of formalised sites. Whilst some authorities have the resources and experience of successful prosecutions, other authorities may wish to consider alternative methods of control. In general, given the scale of fly-posting, particularly in more urban areas, there is a tendency for authorities to adopt a multi-pronged approach to control fly-posting effectively.

Another advantage of the combined approach is that through involving other agencies in the effort to control fly-posting, costs can be shared as well as responsibility and ownership extended. This may involve working with other local authority departments or external agencies including town centre managers, Groundwork, local retailers and businesses and the general public.

Case Study 1: City Centre Management

Manchester City Council control fly-posting in their area using a range of initiatives As a part of their *Bright and Clean* campaign, there are over 25 cleaning operatives in the city centre, working 7 days a week, 24 hours a day to keep the city centre clean. They are instructed to remove fly-posters from street furniture, and collect information to enable prosecution. If reposting occurs, then prosecution is pursued. In addition, stippled paint is applied to lamp posts and street furniture and murals are painted on derelict buildings. All of these efforts are co-ordinated by one team in the authority.

Clearly, some approaches will be favoured by authorities over others and this Guide does not seek to promote one approach over another. Indeed, some authorities have criticised the combined approach on the basis that some methods of control are mutually incompatible. This is often the case when authorities adopt initiatives involving formalised sites as part of a combined approach. For example prosecution does not sit easily with the provision of formalised sites, where fly-posting is tolerated. This can appear contradictory, particularly where the rationale for site selection is not apparent and/or are not properly maintained.

Case Study 2: 'Horses for Courses'

Manchester City Council take measures to prosecute, remove, prevent and formalise fly-posting. However, **Lincoln City Council** do not undertake major fly-posting removal or provide formalised sites but rather focus on prosecution and prevention.

Good Practice Box 2: Combined Approach

If the chosen method of fly-posting control is not unduly successful, consider using a range of methods.

Advantages of a Combined Approach

- *it provides authorities with greater flexibility*
- *it involves other agencies, therefore extending responsibility and*

ownership.

Disadvantages of a Combined Approach

- *a combined approach can put more pressure on authority departments. To mitigate against this, involve other departments and agencies as part of a Corporate Approach (see Section 3.4)*
- *not all methods of control complement each other.*

3.4 A Corporate Approach

Another of the keys to a successful approach to the control of fly-posting is effective organisation both within and between local authority departments and, to a lesser degree, with other agencies. In other words a corporate approach to the control of fly-posting.

Securing commitment from a range of agencies and departments whilst potentially reducing direct service department costs and extending responsibility for dealing with fly-posting, is not always easy. Indeed authorities often bemoan the lack of support for their initiatives, whether from the highways division, the planning department or from the police, chamber of commerce and local residents.

Research for the DETR indicates that it is advantageous if Highways and Planning departments work together to maximise the use of their legislative powers. In London Boroughs and Unitary authorities this involves inter-departmental working arrangements whereas for other authorities this will involve liaison between county (highways) and district (planning) authorities. In some cases the powers under the Highways Act are delegated to districts in order to enable a single authority to maintain control. As a general rule, district authorities are encouraged to seek delegated powers from the county to remove unauthorised advertisements under the 1980 Highways Act.

Similarly, the cleansing department (in some cases responsible for removal) can be involved in efforts to prosecute fly-posting offences. For example, by taking photos, providing statements, and putting notices on posters rather than removing them, the police or the cleansing department can provide valuable information for those seeking to prosecute those involved in fly-posting.

Case Study 3: Street Cleaning Contracts

The street cleaning contract between the **London Borough of Bromley** and their contractor stipulates that posters are removed on sight. However, in support of enforcement action, the contractors usually remove and retain and, where practicable, list other sites and include a witness statement. Where posters cannot be removed without obliterating them, the posters are left in-situ to be photographed and removed.

However, other agencies do not always co-operate and there are instances where, despite catching people putting up posters, another agency has not taken the action needed to bring a successful prosecution eg, vehicle not logged, person not cautioned, name and address not obtained. It is therefore important to promote co-operation with other agencies wherever

possible.

Case Study 4: Collaboration

In the past, **Westminster City Council** has trained members of the local police force about the content of the Town and Country Planning Act in order to encourage them to assist in reporting fly-posting incidents.

Enforcement officers at **Lincoln City Council** are in regular contact with enforcement officers in neighbouring districts. These contacts are used to track the progress of fly-posting offenders (eg circuses, exhibitions) and forewarn councils of likely possible offenders. On a large scale, Lincoln City Council also have close links with authorities around the country including Norwich City Council and Oxford City Council. These links are used to discuss enforcement issues generally, including methods used to control fly-posting.

Equally, by mobilising the local business community and local residents it is possible to involve more people in the control of fly-posting. There is anecdotal evidence that in this way costs to the local authority in terms of monitoring can be reduced, and the effectiveness of initiatives to control fly-posting increased.

Anecdotal evidence suggests that a corporate approach to the control of fly-posting can save time and money. It is essential if an authority chooses to deliver a multi-initiative, **combined** approach to fly-posting control (see [Section 3.3](#)).

Case Study 5: Street Leaders/City Warders

The **London Borough of Lewisham** operates a *Street Leaders* programme, in which local residents are recruited to clean up their streets. After briefing, these volunteers are encouraged to remove any fly-posting they see on designated streets using equipment provided by the council.

Manchester City Council and **Birmingham City Councils** operate *City Warden* schemes, where young unemployed are trained for two days a week and patrol for three days as part of the governments New Deal programme. These people are effectively hosts for the cities, and wear striking jackets to attract attention to themselves. They are equipped with two-way radios so that they can report fly-posting to the relevant authorities as they patrol. In Manchester, the City Wardens are encouraged posters, and provided with equipment to do this.

Good Practice Guide 3: Corporate Approach

- *Maximise on the experiences and legislative powers of other local authority departments*
- *Involve other organisations (police, business community, local residents) in initiatives to control fly-posting*
- *Consider working with neighbouring local authorities to keep up to*

date on fly-posting incidents occurring in the locality.

3.5 Implementation of the Combined, Corporate Approach to Fly-posting

Notwithstanding some of the difficulties of inter-departmental/inter-agency working (differing priorities, different powers and levels of delegated authority), a number of authorities have been successful in setting up effective arrangements to control fly-posting.

There are seven steps to the effective delivery of a combined and corporate approach to fly-posting control:

1. Identify the weaknesses of the current approach to the control of fly-posting.
2. Assess, using this guide, what other legislative tools and initiatives would be appropriate for your district area. Do this in consultation with other local authority departments, and external agencies (business community, police, other authorities, residents).
3. Identify the costs involved in delivering an alternative approach to the control of fly-posting. As a part of this, identify alternative sources of funding eg, local town centre regeneration funds.
4. Investigate how other departments and agencies can assist in delivering these objectives.
5. In consultation with other agencies, devise an appropriate strategy for the control of fly-posting. In this, clearly define:
 - the different initiative(s) used, and linkages between them;
 - for each initiative, and for the strategy as a whole, which agency and local authority department(s) are responsible for its delivery;

Case Study 6: Multiple/Single Agency Responsibility

In **Leeds City Council**, fly-posting on highway structures is the responsibility of the Department of Highways. Posters advertising events to be held in City Council premises are referred to Leisure Services, as fly-posting may be contrary to the department in which the building/land is vested. It is for them to take action to remove fly-posting. The Department of Planning and Environment is responsible for pursuing complaints of fly-posting on other land or buildings.

In **Nottingham City Council**, as in **Birmingham City Council** and **Manchester City Council**, the position is more streamlined. Powers are delegated to one department so that one department has overall responsibility for co-ordinating the prosecution cases.

- the costs involved, and various funding streams to be tapped. As a part of this, provide a justification for the strategy, outlining how it provides value for money and can provide a

real improvement to local environment.

Case Study 7: Policy Statements

Several local authorities, including the **London Borough of Hackney**, **Darlington Borough Council** and **Leeds City Council**, have policy statements setting out their approach to the control of fly-posting. Sometimes these are drafted as documents to be presented before planning committees or alternatively as documents for the public in the form of leaflets detailing the current approach to controlling fly-posting.

6. Steer the strategy through the committee process, resulting in ratification. Total local authority endorsement is vital.

7. Following ratification, the lead agency should implement the strategy; establishing a working party and internal deadlines as appropriate. The ways in which this is done will vary from authority to authority. This sequence of events is reproduced diagrammatically below.

Devising an Appropriate Strategy (see link to the right)

3.6 Publicity

Publicising initiatives to control fly-posting can help increase local knowledge of the schemes and encourage public involvement. Local authorities have adopted a range of approaches to publicising their initiatives, using different media local press, council internet sites, local radio or TV programmes. Whilst some authorities have experienced a backlash from local press in being presented as anti-business publicity, it is generally regarded as an effective tool. The most effective way of using the local press is to publicise successful prosecutions and name and shame offenders. Some authorities also find it useful to publicise unsuccessful prosecutions.

One approach to publicity that has had some success is to mobilise and involve local people.

Case Study 8: Publicity

In **Manchester City Council** posters advertising council activity, together with the provision of a hotline number, encourage local people to get involved (see hotline poster Appendix B).

In the **Lake District National Park** the failure to prosecute a travelling art exhibition did not prevent effective press coverage. The resulting article published the offence and the support of local Councillors to control fly-posting.

The **London Borough of Bromley** features every successful prosecution in the local newspaper, the Newshopper, to reinforce the Councils policy. In each article the fined company is named (see Appendix B).

In addition to publicising their own activity there are a series of award schemes run by different agencies (for example, Keep Britain Tidy Group and the British Cleaning Council) which provide awards (and publicity) to the cleanest towns and cities in the UK. As part of the criteria

for assessment, towns have to demonstrate effective control of fly-posting activity. Authorities may wish to consider promoting their areas in the light of successful campaigns to control fly-posting.

Good Practice Box 4: Publicity

- *Establish good working relationships with local newspapers. Keep them fully informed about the Authority's policy to control fly-posting.*
- *Publicise successful prosecutions. State the offender and the amount fined. Name and shame the offender.*
- *Consider using other media including local TV stations, web sites etc.*
- *Use publicity to get local residents and the business community aware and involved in Authority's approach to the control of fly-posting. Advertise hotline numbers.*
- *Seek positive publicity by entering into Clean City awards.*

[Go to table of contents](#)

4. Prosecution

4.1 Introduction

Fly-posting is illegal and can be prosecuted through the magistrates courts using a number of legislative procedures. The main route for prosecution by local authorities is under **Section 224 of the Town and Country Planning Act 1990**, and other provisions are included within the **Highways Act 1980**, and local legislation. However, notwithstanding these provisions and associated guidance in the Annex to Circular 5/92, prosecution is not necessarily straightforward. In this section, using examples of successful prosecutions, guidance is given on how to achieve successful prosecutions within the existing legal framework. **Legislation is reproduced at Appendix A.**

4.2 Town and Country Planning Act 1990

Section 224(3) of the 1990 Planning Act makes it an offence for any person to display an advertisement in contravention of the Regulations (Town and Country Planning (Control of Advertisements) Regulations, 1992). Authorities may prosecute those involved in putting up posters where caught red-handed but more often action is taken against beneficiaries people/organisations whose products are advertised or in some other way derive benefit from having the product advertised. In addition, landowners can be prosecuted, although in the light of the Merton and Wycombe cases this can be difficult (see Chapter 2 Legal Framework).

Case Study 9: Successful Prosecutions using the Town and Country Planning Act (1990)

Birmingham City Council has prosecuted 250 cases against record companies and fly-posting companies although only one in nine is successful. Several other authorities have successfully prosecuted against fly-posting, including City of Westminster, London Borough of Camden and Lincoln City Council .
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4.3 Highways Act 1980

Section 132 of the 1980 Highways Act makes it an offence for any person to display an advertisement in contravention of the Regulations and authorities have the power to remove posters without notice. Local authority experience of prosecuting under the 1980 Highways Act is mixed, with some authorities experiencing difficulties in its use. One major criticism was that the fines are too low and that the legislation does not permit prosecution solely on the basis of the illegality of the sign; instead an offence only occurs if it impedes safety or is an obstruction to the highway.

Case Study 10: Successful Prosecutions using the Highways Act, 1990
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The London Borough of Bromley has had 25 successful prosecutions for illegal signs placed on the highways/street furniture, since March 1996. This demonstrates that it is possible to prosecute using the Highways Act.

4.4 Procedures

Prosecution can be time-consuming and therefore costly. It is not always easy to track the

beneficiaries or the fly-posting companies themselves; the resulting fines can be small relative to the financial benefit derived from fly-posting and do not cover all costs; and cases can take a long time to resolve. However, prosecution can be an effective approach if time and resources allow. Aspects of the prosecution process are explained below, identifying good practice points that can assist local authorities in successfully prosecuting those involved in fly-posting. As ever, good organisation is the key this includes setting out a clear policy, setting up automated record systems and using standardised document templates such as warning letters and statement forms.

The good practice guidelines below apply equally to prosecutions using the Town and Country Planning Act, the Highways Act and relevant local legislation.

Tracking Beneficiaries of Fly-posting

One of the main problems associated with prosecution is identifying those parties against whom action can be taken. Under s.224(4) the definition of parties that might be considered beneficiaries and thus liable to prosecution, is potentially wide. A beneficiary might be the owner or occupier of the property on which the advertisement is displayed, or the person to whom the advertisement gives publicity for goods, trade, business or other concerns.

However, companies involved in fly-posting and those using it as a medium for advertising often seek to disguise the origin of the poster, making it difficult and time-consuming for the local authority to track down a beneficiary. As a consequence, local authorities may need to track down the origins of posters via other media such as in the music press. An added complication is the decision in the Merton and Wycombe cases which make successful prosecution against venues and landowners difficult to achieve. This can lead to a reluctance to prosecute these parties and instead focus on the products being advertised.

Steps that can be taken to reduce the amount of time involved in tracking offenders include:

- Keeping records of past and present offenders. This indicates how frequently an offence has been committed and can also be used as a source of existing data on the offending poster. Note down "leads".
- Maximising use of other sources DVLA, CCTV, other records and knowledge from other agencies such as town centre managers.
- Contacting the Office of Fair Trading (OFT). The OFT keeps a record of prosecutions. These can be used successfully as a source of previous convictions.

Case Study 11: CCTV (see link to the right)

Generally, it is easier to track locally-based companies using local network contacts, but in many urban areas fly-posting is more organised and run by people with no fixed address. This is typified by an event that was organised by staff using mobile numbers and being based in a hotel for a day. As a consequence it is very difficult to trace beneficiaries. In these cases other types of control such as removal of posters may be more effective.

4.5 Standardised Information Collection and Recording Procedures

Many prosecution cases fail because insufficient information about the offence is recorded. One method of reducing the time taken to meet the requirements of the legislation is by developing standardised information collection procedures and by involving administrative staff who oversee them. The guidance set out in Circular 5/92 is specific, and the onus is on the local authority to photograph and log all offences (see Appendix A).

Case Study 12: Failure to Record Information Correctly Can Result in Unsuccessful Prosecutions

Leeds City Council brought a prosecution against a pub landlord which failed because the publican convinced the Magistrates that he had no knowledge of the alleged fly-posting. The Magistrates considered that the information contained in letters from the City Council was not sufficiently precise in identifying the alleged offences and so the defence was valid.

Firstly, all parties involved must be clear exactly what systems are in place to pursue prosecution cases. This is most usefully summarised in the form of flow diagrams or procedure notes.

Photo exhibit for prosecution, Bromley (see link to the right)

As a part of the procedure, standardised information collection needs to take place. This might include records of past and present fly-posting offences acted on by the council. It is also important that local authorities have some sort of central system to record any council-based response to fly-posting offences. These records should be automated so that they can be accessed by relevant enforcement staff and ideally also be used by the legal department. A simple recording system set up on a spreadsheet should suffice.

Authorities should not rely on more ad hoc systems, based on personal knowledge and contact bases, as these can lead to repetitive, unfocussed and often inconsistent approaches to tackling fly-posting. Ad hoc systems mean that other members of staff, both within the department and in other departments, do not have a method of easily acquiring knowledge of past and current fly-posting offences. As part of a standardised information collection system all officers must write down everything, including notes of phone calls and contacts.

Great care needs to be taken to ensure evidence produced in the court gives a strong indication to the Magistrates the reason why the authority is taking legal action. Rather than produce one photograph and state that there were twenty other posters a photograph of every poster should be produced, with each one attached to a street plan showing where the poster was displayed.

There are several examples of local authorities that are taking advantage of information technology, and devising recording systems for fly-posting initiatives as part of general efforts to automate records of enforcement activity generally.

Case Study 13: Recording Systems

The **Lake District National Park Authority** is seeking to develop a link between GIS and a database, so that all offences/observations can be identified geographically as well as by other fields. Notes are made of all phonecalls, and copies of all letters kept on file. The extent of the correspondence with the offender is put on a database, so that a

particular case can be carried on by future staff if necessary. For the purposes of their records, a re-offence is a new offence two weeks after an initial record. In this way it is possible to gauge the frequency of posters being put up.

Manchester City Council and **Westminster City Council** keep records of ongoing cases using spreadsheets. Entries are made for the date of the offence, the nature of the poster, any contacts, the nature of the action to date and the date of the next action.

It is also useful to set up a series of templates for letters, interviews and statement forms for use during the prosecution process.

Warning letters are a valuable tool for the officer seeking to control fly-posting. As is often the case in enforcement, the process of initiating prosecutions can be successful in achieving compliance without the matter reaching court. Sending letters threatening prosecution can often be enough, and adverse press coverage can be effective.

It is important that standard warning letters threatening prosecution are phrased in a way which suggests real intent. A letter worded "you will be prosecuted" is more effective than one which says "I shall report you to committee". It is advisable for authorities to draft a template warning letter, as this saves time and is easy to reproduce on a regular basis. In addition to threatening prosecution, warning letters should:

- quote the legislation, and include example of possible fines;
- clearly set out the time period the respondent has to reply to action;
- specify what the next course of action should be.

Examples of template warning letters are found in Appendix C. It may also be possible to secure compliance and recover costs without needing to prosecute through the magistrates court (**Case Study 14: Wycombe**).

Case Study 14: The Threat of Prosecution Alone Can be Effective

Lincoln City Council adopt a first warning principle. When seen fly-posting in person on CCTV, a perpetrator is allowed to remove posters. If posters are removed there is no further action. Subsequent offences by the same person(s) are prosecuted.

Torbay District Council also consider it appropriate to give offenders the opportunity to respond to warning letters. For example, the Council requested that a local band take down posters and this was effective as posters were removed and no reoffences occurred.

Leeds City Council have found that warning letters are effective where certain types of fly-posting is involved and the threat of prosecution can persuade advertisers, mostly local small businesses, to remove fly-

posting without further time being spent by the local authority.

Wycombe District Council have successfully caught a fly-posting company, and covered their costs, without going to court. The promoter was promoting a gig at a venue in Maidenhead. The licence number of the fly-posting vehicle was taken and an address acquired from DVLA. At the same time a phone number on the fly-poster was rung, and the address of the event venue taken. The car was registered to the same address. With this information, the council sent the invoice to the address at £5 per poster (70 posters). In this case the fine was paid.

Many authorities do not seek to interview fly-posting offenders. However, if this step is pursued, then it is important to take down as much information as possible as it provides further evidence for a possible prosecution. A variation of this form could be used to use as a record of phone conversations.

In the main, it is local authority officers that complete statements, often with the assistance of legal departments. Increasingly, statements from third parties such as cleaning operatives and the police force are encouraged. It is for this reason that a standard template is appropriate. It should be clearly set out, preferably on no more than two sides of A4 paper. This form must be readily available once an offence has occurred, together with supporting notes to help those less informed fill out the form. A Statement Form Template is provided in Appendix C.

4.6 Presenting the Case

Concern has been expressed by authorities about the treatment of fly-posting cases by magistrates, with a general concern about the low level of fines which frequently do not meet local authority costs and serve as little deterrent to fly-posting companies.

Case Study 15: Problematic Magistrates

Westminster City Council noted that although magistrates did impose fines for prosecutions using the 1990 Planning Act, the extent of the fine varied depending on the personalities involved. They also cited some examples where cases have been taken to court, and several poster offences not awarded multiple fines (ie, on a per poster basis), but instead have been awarded a reduced blanket fine.

One way of overcoming this problem is to raise the profile of fly-posting offences by grouping cases. Local authorities should also cite other successful prosecutions as part of their cases, including the high fines awarded. Magistrates should also be informed of repeat offences.

Good Practice Box 5: Prosecution

- *Do everything in writing*
- *Send warning letters*
- *Photograph everything*
- *Keep records of past and present offenders on a computerised database*
- *Enlist administrative support*

- *Consider employing ex-police force members, as they are familiar with the prosecution process*
- *Develop a rapport with legal team*
- *Be prepared to explain procedure to magistrates*
- *Cite examples of previous successful cases*
- *Bundle prosecutions together and encourage the magistrate to fine on a poster by poster basis*

[Go to table of contents](#)

5. Removal

5.1 Introduction

The removal of posters is probably the most common method of controlling fly-posting used by local authorities. One of the attractions of controlling fly-posting in this way is the ability to very quickly achieve discernible results. In addition a policy of poster removal can provide a disincentive to fly-posting companies when they realise that the posters are not displayed for any length of time.

However, under the existing provisions of the 1990 Planning Act, authorities need to make sure they are not themselves acting outside the statutory limits when removing posters. Immediate removal can be carried out where there is no information about the person who displayed the poster **and** they cannot be identified after reasonable inquiries. Where this information is given on the poster, two days notice of removal is required.

Posters on street furniture can be removed without notice under the 1980 Highways Act. This provision is regularly used by authorities, often through street cleaning contracts.

Removal can be resource intensive, requiring teams of people and often the use of sophisticated equipment. Also, the removal of posters is commonly a short term solution to the control of fly-posting. Without regular monitoring and continued removal, the fabric of the built environment can decline again as fly-posting companies return and illegal posters are re-posted where they were once removed.

A further concern with removal is that it places the onus on the local authority rather than the fly-posting company to deal with unauthorised posters. A way around this perception is to remove fly-posting in conjunction with other initiatives of prevention or prosecution. The combined approach is discussed in Section 3.3.

5.2 Approaches to Removal

Several authorities remove posters as part of a single concerted attempt to clean up part of a town or city. This kind of action can be expensive, but can also be effective in cleaning up the area, setting new standards and also providing evidence of a strong local authority presence.

Case Study 16: One-off Purges

In 1998, **Bradford Metropolitan District Council** appointed a contractor to remove all the illegal signs on main arterial routes. In addition they wrote to house-building companies to remove illegal signs. Every sign was taken down at a cost of £10,000 (and 4 lorry loads of posters collected). The action was generally regarded as successful as the city council have been able to keep the roads relatively clear, albeit with constant monitoring by the Highways Maintenance team.

Leeds City Council took action to remove fly-posting from street furniture in the city centre involving 45 sites and costing £6,500.

Purges can target a particular area or a particular offender. Whilst this approach is temporarily

very effective it is not a long term solution to the control of fly-posting. One of the keys to providing an efficient rapid removal service is having people serving as *theeyes and ears* of the area.

Case Study 17: Rapid Response Service

Manchester City Council operate a rapid response service that aims to remove posters within an hour. They operate a one stop shop service which people are encouraged to call. Information is immediately transferred to the depot where operatives will be sent to remove posters seen and reported. Staff work Monday to Friday and there is also a night street cleaning team. The call centre is open seven days a week, 24 hours a day. Manchester also has a system of client officers who are required to patrol every street in their area at least once a month with instructions to remove posters. City wardens patrol central areas and can remove posters. Importantly, set procedures exist both to facilitate prosecution as well as comply with legislative requirements.

Plymouth City Council have 57 street cleaning staff, with a skeleton team operating at weekends. Posters are removed as soon after they have been seen as possible on the basis that once fly-posting is allowed to remain for a couple of days it is an incentive for more posters. The authority also has a particularly tough line on obscene graffiti or fly-posting, which is removed within one or two hours. This removal is also written into the cleaning contract.

Birmingham City Council have a series of taskforces made up of three or four two person crews patrolling the main roads and city centre and removing placards and posters as they see them or as they are reported to them. Because task forces have been threatened in previous instances, the task force teams are rotated to work in different areas for safety reasons.

Removing posters attached to street furniture with string, wire or ratchet straps can be relatively easy using scissors or wire cutters. However, particular difficulties arise where posters are glued to sites. Removal using steam cleaners/high pressure water hoses can be effective, but time-consuming and expensive. Small stickers are particularly difficult to remove and there is no quick and easy solution

5.3 Cleaning Contracts

Many authorities have cleaning contracts which incorporate provisions for the control of fly-posting as a specific task: Birmingham, Wycombe, Lincoln, Manchester, Torbay, Plymouth and Bromley all have these in place. Advantages of this approach are that costs can be fixed and targets for achievement set. Clearly it is important that the contractors are fully aware of the clause relating to the removal of fly-posting.

Case Study 18: Street Cleaning Contracts

Wycombe District Council have had a street cleaning contract for 8 years. This applies to street furniture, and explicitly states that the removal of unauthorised signs comes within the definition of street cleaning. There is a specific section dedicated to the treatment of

Unauthorised Signs. This states:

All unauthorised signs attached to street furniture shall be removed on each cleansing frequency including fixings and backings. The council in partnership with Buckinghamshire County Council has a firm policy for the removal of unauthorised advertising and directional signs that are attached to street furniture. The Contractor will be advised of any permissions given to erect signs and all others must be removed. Signs will be for such activities as car boot sales, special sales and events, circuses, fun fairs and similar local events.

Extract from Cleansing Contract, **Bromley Borough Council**:

The contractor shall remove all unauthorised signs and advertisements fixed within highways boundaries or on any street furniture, equipment, structures and trees on his own initiative as part of the scheduled services or earlier if possible, and no additional payment will be made. Fly-posting notified to the Contract Manager by the Authorised Officer(s) verbally or in writing must be removed within one working day.

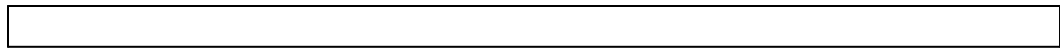
Any fly-posting which indicates the name of the person or organisation which may be responsible for its origin, or posting, should be left in place and notified to the Authorised Officer (s) the same working day. The Authorised Officer will then investigate and issue further instructions to the Contract Manager.

The Contract Manager shall notify the Authorised Officer(s) on the same working day, of any fly-posting which in his opinion is outside the scope of the Services.

Any failure by the Contractor to remove fly-posting in accordance with the above shall be dealt with as unsatisfactory work in accordance with xxxx of the Conditions of the contract. Default shall be calculated on a base cost of £15 per site per day until rectified.

Good Practice Guide 6: Good Practice Messages - Cleaning Contracts

- *Encourage contractors to identify innovative ways of removing fly-posting in their tenders*
- *Include the removal of illegal signs as a part of street cleaning contracts*
- *Include provisions to refer "difficult" fly-posting cases to the relevant authority department for further action*
- *Inform the cleansing operatives about existing planning consents and any other procedures to follow eg, prosecution.*



5.4 Private Property

A common difficulty in removing fly-posters relates to removing posters from third party property, such as building sites, vacant buildings etc. There is a misconception that s.225 of the 1990 Planning Act does not permit authorities to remove posters from private land. In fact, whilst the provisions do permit this course of action, local authorities may be liable to claims for any damage to property during the course of removing posters or for trespass.

Vacant Building in Wycombe (see link to the right)

Understandably, this liability means that local authorities are often reluctant to remove posters from private property. This can limit the effectiveness of these efforts as fly-posting appears to be condoned in certain areas and not in others.

A simple way of overcoming this problem is by involving property owners in the removal process, either by requesting they remove the posters themselves or pay for removal undertaken by the local authority. There are difficulties with this approach, particularly identifying who the property owner is for vacant or derelict buildings.

Good Practice Box 7: Removal From Private Land

Good practice points when seeking to remove posters from third party properties:

- *Check authority records to ensure that the local authority do not own the property. If they do they can remove the poster immediately.*
- *If the building is not in the authority's ownership, assume that they could be liable should any damage be incurred on the property. Accordingly, proceed cautiously.*
- *Engage with local building companies, and local estate agents encouraging the removal of fly-posting as a precursor to selling and developing a site.*
- *Send out standard warning letters to known property owners, requesting permission to remove posters.*
- *Liaise with other departments to track down property owners eg, valuation, town centre manager, estate management.*

5.5 Removal and Prosecution

It is important to note that removal of posters can prevent prosecution cases from being taken forward successfully. Care must therefore be taken not to prejudice prosecution cases, particularly if the posters are repeatedly posted and their previous removal has not been effective. As a consequence, several authorities have removal procedures in place that require the cleaning operatives, city wardens or enforcement officers to adhere to prosecution regulations when considering removal of posters.

Case Study 19: Removal - Assisting Prosecutions

Manchester City Council have clearly linked their prosecution and

removal procedures, and have drafted a procedure document for cleaning operatives, city wardens, and the street enforcement team as a whole. There is a three stage removal procedure:

1. Take down poster
2. Note the date and the time, and the poster, and any other details of beneficiary on the poster.
3. Send a warning letter advising that the poster has been removed and that a repeat offence may result in a prosecution#.

5.6 Cost Recovery/Minimisation

A policy of removing posters, particularly in urban areas can be high. Some authorities have successfully recovered costs incurred by the Council in the removal of fly-posters by calling those involved in fly-posting before removing the posters and then billing them. It is also important to get the support of the local business community. This also encourages third parties to be responsive when it comes to removing posters on private property.

Case Study 20: Cost Recovery

Bradford Metropolitan District Council successfully recover costs incurred for poster removal from fly-posting perpetrators. This is done by firstly calling those involved in the offence and warning them of impending charges if the poster is not removed. A bill for any Council incurred costs are then sent to the perpetrator.

While Bradford Metropolitan District Council have been successful in recouping costs in this way, this method assumes that the perpetrator is easily identified from the poster and that the Council has appropriate contact details.

Alternatively, community ownership of the schemes can be encouraged (see **Case Study 5: Street Wardens**). If this approach is being followed then some sort of training or procedural instructions should be provided to those participating.

Good Practice Box 8: Removal

- *One-off purges bring instant results but can be expensive. Post purge top-ups are necessary.*
- *Effective removal requires a rapid response to reported cases. Employ teams of street cleaning staff on a shift basis (7 days a week) so they can respond out of conventional working hours.*
- *Consider contracting out cleansing services. Ensure that fly-posting removal responsibilities are clearly set out.*
- *Be careful when removing posters from private property. Follow guidelines in Good Practice Box 7, Section 5.4.*
- *Link prosecution and removal procedures so that prosecution can*

still take place. See Section 5.5 for more information.

- *Try to recover costs. Reduce costs by getting the business community and local residents involved.*

Go to table of contents

6. Prevention

6.1 Introduction

In addition to the reactive approaches outlined in the previous two sections, local authorities can take action to prevent fly-posting occurring. This can be done in a number of ways:

- Providing advice to the general public on how to advertise legally
- Placing warning notices on properties
- Setting up a CCTV system and using it to control fly-posting
- Entering into agreements with property owners
- Using site treatment measures
- Encouraging urban renewal

6.2 Advertising advice

It has already been mentioned that publicity, in the form of articles featuring successful prosecutions, can serve as a deterrent to would-be fly-posting companies (see Section 3.6). More targeted publicity can also help to prevent fly-posting. Several authorities have noted that in some cases fly-posting occurs because the offenders do not know that it is illegal.

Advice Leaflet (see link to the right)

Case Study 21: Notifying Property Agents

The **Lake District National Park** experienced a proliferation of estate agents boards on the main arterial routes in the south of the district. To combat this, a letter was prepared that set out the Advertisement Regulations as well as enforcement regulations and intentions. This was sent to all the estate agents operating in the area. Subsequently, there are now fewer estate agent boards within the boundaries of the National Park (although the problem appears to have been displaced to areas immediately outside the national park boundary).

Wycombe District Council have drafted a paper summarising the Advertisement Regulations, and provide contact names and phone numbers for those wanting to request planning permission or inquire further. This document also makes it very clear that Wycombe District Council have a strict enforcement policy where illegal posters are removed and the more blatant offenders prosecuted. A similar guidance note is also available on Roadside Advertising. See Appendix D.

Westminster City Council has a Fly-posting Factsheet co-funded by the

Tidy Britain Group. This is formatted in A5 size, defines fly-posting, outlines legislation and summarises council initiatives. See Appendix D.

6.3 Warning Notices

In most authorities it is possible to predict which sites would most likely be targeted by fly-posting companies. These are normally in locations with a large daily pedestrian population (town centres, university campuses), with an appropriate free surface whether it be a hoarding, the wall(s) of a vacant property, a lamp post, a bus stop, a signal box, or street furniture.

In these locations, local authorities can reduce the incidence of fly-posting by placing warning notices near them. These clearly state that fly-posting is an offence, and that a successful prosecution can result in a substantial fine. If possible, a warning notice should include an example of a recent prosecution and an example of the fine charged.

The use of warning notices is not as widespread as it could be. This is partly because, by placing a poster on a site appropriate for fly-posting, it can look no better than fly-posting itself and authorities do not want to be seen to contradict the purpose of their message. Although this is a valid point, this does not mean that warning notices are ineffective. One way round the problem is to encourage local authorities to put up semi-permanent warning notices in prominent sites notices that are not obviously posters, but are more akin to the street furniture.

Case Study 22: Local Authority Notices

The **London Borough of Bromley** have produced several warning notices of several sizes (A4, A3 and A0) to place on prime fly-posting sites in the district. These are simple colourful posters with a sticky backing. These are used sporadically to ensure that the message gets across. The authority do have reservations about over-use however, as these posters can resemble fly-posters.

Westminster City Council also have warning notices. These are used sporadically (see Appendix D).

Because vacant buildings and hoardings are often prime sites for fly-posters, local authorities should also encourage private land owners to put up warning notices on their properties.

Case Study 23: Advising Private Land Owners

Wycombe District Council give warning notices to shop owners to place in their windows. The **London Borough of Bromley** give warning notices to estate agents to forward to the owners of properties they are selling.

6.4 CCTV

CCTV systems have been introduced to reduce real and perceived crime levels in town centres around the country. As a part of this, they serve as a deterrent to would be fly-posters because of the fear of offenders being caught on camera any time of the day or night.

For CCTV systems to be a real deterrent to fly-posting companies and individuals, local authorities must be seen to use the CCTV system to control fly-posting in their area. This can be done by using the system to identify fly-posting offenders as part of a prosecution case or, if the response is quick enough, by using the system to warn offenders on the spot. It is essential that CCTV system surveillance teams are primed to identify fly-posting offences.

Case Study 24: Prompt Action in Response to CCTV Evidence

Lincoln City Council use the city centre CCTV system to catch fly-posting offences. In one instance, while the offence was still occurring, the surveillance officers contacted the enforcement officer who immediately went on site and confronted the offender. The offender was forced to remove all the posters or otherwise face prosecution charges (**Case Study 9: Successful Prosecutions using the Town and Country Planning Act (1990)**).

6.5 Agreements with Property Owners

One of the main ways local authorities can effectively control fly-posting on private property is by entering into agreements with property owners before the fly-posting offence has occurred. These agreements can take many forms and can be either formal or informal involving property owners and enforcement officers, the police, and/or town centre managers. What they have in common is that they improve relations with property owners, increase the involvement of third parties in the control of fly-posting, and seek to overcome the problems of the authority's liability for controlling fly-posting on private property.

This can be done in various different ways:

- Encouraging property owners to put up warning notices, and to police their own buildings.
- Encouraging property owners to withhold deposits in the event of promoters fly-posting an event to be held in that property.

Case Study 25: Working with Private Property Owners

In Birmingham city centre, the **Birmingham City Council** have encouraged building occupiers and managing agents to keep their frontages clear of posters. There is a new sense of civic pride in Birmingham City Centre, and these requests are being respected.

Wycombe District Council have involved their local football team in their efforts to prevent fly-posting in the district. When letting out their property, Wycombe Wanderers Football Club specify in the contract that no fly-posting is allowed. If any occurs then the deposit is withdrawn. It is hoped that the involvement of high profile companies/organisations will increase the effectiveness of Wycombe's efforts to control fly-posting.

In **Darlington Borough Council**, council owned property is let under the firm agreement that no fly-posting will take place. The contract is revoked if fly-posting is discovered, and deposits for letting the property are retained.

In **Bradford Metropolitan District Council**, council properties are let out with a disclaimer in place for the information of those renting the properties stating that fly-posting is illegal. In this instance the local authority do not withdraw deposits in the event of fly-posting, but

consider the warning in the disclaimer to be sufficient.

Lincoln City Council do not permit fly-posting in or around council buildings. After ignoring a request by the authority to stop fly-posting contained within the booking form, the authority cancelled an antiques fair on the day it was scheduled because the fly-posting continued. Since then, the Antiques fair operator has not returned to Lincoln, and fly-posting is rare on council properties.

- Entering into agreements with universities/educational establishments. The presence of students increases the likelihood of fly-posting occurring in a particular area, especially in and around the campus. This is not only because they are a target audience, but also because they generate demand for locally-based events often advertised using fly-posting. Entering into agreements with the university as a whole or the student union specifically can help prevent university-originated fly-posting from occurring, and can also assist in keeping designated areas clear.

Case Study 26: Liaising with Universities

In Bradford, the **Bradford Metropolitan District Council** contacted the student union directly and informed them about the illegality of fly-posting. The students were told to put their notices on their boards and columns specifically, and nowhere else.

Manchester City Council have a strong relationship with local universities, and meet regularly to investigate and encourage new ways of publicising events in the city.

- Entering into agreements with estate agents. As representatives of property owners, the estate agents can act as intermediaries between the local authority and the property owner. During the period of their instruction they can, with the property owners permission, control fly-posting on the properties they represent.

Case Study 27: Liaising with Local Agents

The **London Borough of Bromley** works with over thirty local estate agents to control fly-posting on properties for sale in the district. With the owners permission, the estate agents either remove posters themselves or contact the property owners informing them of the fly-posting. Generally, property owners give the estate agents permission to remove the posters, recognising that poster removal and the placing of warning notices on properties is likely to assist with the sale. Estate agents also provide the authority with useful ownership information in the event of future fly-posting offences occurring on the site.

- Placing conditions in Entertainment Licenses which clearly state that no fly-posting can occur in relation to the event taking place at the venue.

Case Study 28: Licence Conditions

Birmingham City Council issue all Entertainment Licenses for nightclubs with the requirement for the applicant to retain details of all promoters using the premises. This is to assist the local authority in identifying promoters that use fly-posting to advertise their events.

6.6 Site Treatment Measures

Site treatment measures can prevent fly-posting on hoardings, vacant buildings, signal boxes, lamp posts or street furniture. The aim of these measures is to make it more difficult to stick posters on the treated surface, or to make it easier for the posters to be removed.

A perceived disadvantage of site treatment measures is their expense. In addition, they have been criticised because the final product is not aesthetically pleasing and only effective in the very short term. The experiences of several case study authorities do show however that site treatment measures can work, especially if applied to areas persistently targetted by fly-posting companies. The results can be imaginative, colourful and effective and can involve the local community in efforts to clean up the environment. They can also provide a quick and effective improvement to an area, and engender civic pride. Some of the treatments used are described below:

Preventative coatings

There are some coatings on the market that are designed to make it impossible to fly-post once the treatment has been applied. Some of these take the form of anti-glue paints. The most commonly used coatings are treatments which, by effectively roughening or stippling the surface, deter its use for fly-posting. One of the advantages of stippling, or indeed any other preventative coating, is that it can be applied to most types of site that are fly-posted.

Lamp post in Manchester (before) (see link to the right)

Lamp post in Manchester (after) (see link to the right)

Case Study 29: Stippled Paint

In Wycombe, fly-posting frequently occurs in a subway linking the town centre and the local college. **Wycombe District Council** treated this by applying stippled paint overlain with an anti-graffiti treatment. Although this was effective in preventing further fly-posting on the surface itself, it continued on flatter panels of the subway, and the graffiti problem also continued.

Bradford Metropolitan District Council have applied stippling to lighting columns and signal control cabinets in the town centre. The stippling stops above 8 ft high, as above this fly-posting does not occur.

In Manchester, fly-posting was particularly prevalent in the immediate vicinity of a night club. **Manchester City Council** applied stippling to the street furniture at a cost of between £70 and £140 per piece of street furniture. These costs cover the removal, cleaning and the application of

the stippled paint. After six months, there were no repeat offences, and the stippling remained intact. This programme of street treatments was part funded by the City Centre Management Company and the local regeneration partnership.

Hoardings

A common location for fly-posting is on building site hoardings, which provide an often extensive flat and empty surface. To avoid fly-posting on these surfaces, several authorities encourage building companies and property owners to use a slatted hoarding. This is effective because it creates uneven surface which fly-posters cannot be readily glued to.

Case Study 30: Hoardings

Bromley Borough Council contact billboard companies, requesting that they put slatting around hoardings to prevent fly-posting.

Westminster City Council have regular contact with outdoor advertising companies and insert conditions into planning permissions requiring that slatted hoardings be provided around large advertising boards. It is useful to build good relations with outdoor advertising companies as they are very keen to stop fly-posting, and may be prepared to pay for preventative measures including slatting.

Murals and Mosaics

Another effective method of treating commonly fly-posted sites is to commission artists to paint murals and construct mosaics on those sites, at the same time creating permanent works of art. Several authorities have tried this approach with success.

Mural, Bradford (see link to the right)

Case Study 31: Murals

Bradford Metropolitan District Council is famous for its film, photography and television museum in the city centre. The local authority took advantage of this when commissioning local artists to construct mosaics in subways based on archive material from the national newspaper, the National Daily Herald. Local photographers were particularly innovative, using two subway walls as surfaces for projected images from the photographic museum. Images of different sizes were triggered via projectors as pedestrians walked down the subway. This was part funded by the photographic museum. Elsewhere in the city, local schools have illustrated hoardings around development sites. In all of these examples, fly-posting or graffiti has not reoccurred on the sites.

Plymouth City Council have installed tiled murals depicting world exploration. These are located in city centre subways. **Wycombe District Council** decided to paint a mural of a countryside scene on the hoarding of a repeatedly fly-posted building. Subsequently the vacant building was redeveloped.

Mural, Bradford (see link to the right)

Case Study 32: Liaising with the Utility Companies

In Torbay, Eurobell manage the public telephone utilities, including the

BT boxes. They are responsible for cleaning and maintaining stippling on their own phoneboxes, independently of **Torbay Borough Councils** activities to control fly-posting. Generally, the boxes are well maintained and poster free.

Bradford's experience shows the beneficial impact of local art, not only in effectively preventing fly-posting on key sites but in improving the urban environment and involving the local community. The price of commissioning a large mural can however be fairly substantial. The local authority is likely to be expected to pay at least part of any fee for the work, but may be able to minimise costs by employing local artists, using local school children and encouraging other organisations such as art schools and regeneration partnerships; to help co-fund and co-resource the projects.

Equally, the costs for other site treatments can be high. For one authority, hammerite coatings on pillars and lamp posts in the city centre cost £4,000. Given this, it is recommended that authorities encourage property owners to be responsible for their own buildings as far as possible.

Case Study Box 33: Encouraging Third Party Payment for Site Treatments

Westminster City Council have a contractor ready placed to remove fly-posting and treat the site, whether it be with an anti-poster glue/coating for windows or slatting for property. The contractor offers the third parties a reduced price to do the work, at no expense to the authority.

Another way in which the costs of preventative site treatments can be reduced is by encouraging utilities to manage their own property, by both the removal of fly-posters and the application of stippling paint (see **Case Study Box 32** above).

6.7 Encourage Urban Renewal

Initiatives seeking to control fly-posting by preventing its occurrence in the first place are often part of an urban renewal agenda being pursued at the same time. It is recognised that fly-posting is associated with urban blight, and it is hoped therefore that by improving the environment generally fly-posting will reduce. This is arguably the best and most permanent control of fly-posting in an area, but is a solution that can only be reached in the longer term.

Case Study 34: Urban Regeneration Projects

Darlington Borough Council, not only seek to control fly-posting but they also have a wide range of ongoing projects seeking to improve the environment. These include the Railside Revival Scheme, the renewal of derelict buildings, river restoration projects and works on main arterial routes.

Between 1997 and 1999, **Wycombe District Council** have invested heavily in town centre improvements. One scheme (part funded by the Planning Department) is a project providing grants for new shop fronts and signs to tidy up vacant and unsightly buildings.

Birmingham City Council are reducing and directing the placement of new street furniture so that there are fewer bollards and posts in public

spaces suitable for fly-posting. They are also encouraging utilities to locate signal boxes away from main thoroughfares in quieter and therefore less attractive areas for the fly-posting company.

Good Practice Box 9: Prevention

- *Produce advice leaflets/target letters informing local businesses, property owners and residents that fly-posting is illegal.*
- *Place warning notices on popular fly-posting sites. Consider placing semi-permanent notices in these locations.*
- *Encourage private property owners to place warning notices on their property.*
- *Use the CCTV system to catch fly-posting offenders. This will improve its effectiveness as a deterrent.*
- *Enter into agreements with private property owners, including universities and estate agents. These can be formal or informal and take many forms (see Section 6.5 for more detail).*
- *Consider using site treatment measures. While they may be expensive, they can be effective. Reduce expense by commissioning local schools to produce art work on street furniture, exposed walls etc. Encourage utilities to cover their own boxes (see Section 6.6).*
- *Pursue initiatives that encourage urban renewal in your district. Improving the local environment reduces blight which also reduces the likelihood of fly-posting (see Section 6.7).*

7. Formalised Sites

The provision of formalised sites is probably the most controversial approach to the control of fly-posting. It involves the provision of local authority sanctioned sites where fly-posting is tolerated. Formalised sites are a last resort when all other initiatives have been tried and failed.

There are potential legal difficulties surrounding the establishment of formalised sites. Any site would require express consent under the Town and Country Planning (Control of Advertisements) Regulations 1992, as amended in 1994 and 1999. Local planning authorities are required to exercise their powers under these in the interests of amenity and public safety. Given the unsightly nature of most fly-posting, this consent may be hard to obtain. Additionally, formalised sites may require planning permission and or consent from the highway authority. Neither of these can be taken for granted.

Formalised sites may work under certain very limited circumstances. They will only work effectively in areas where fly-posting companies want to fly-post. It is therefore not a method of displacing fly-posting from popular central urban areas to less popular areas, but is a way of containing high demand for fly-posting in popular areas such as students campuses and where there are a large number of hotels.

Formalised sites for fly-posting are found on different types of surfaces in town centres. In some cases these take the form of specially placed drums or hoardings, but smaller areas including community notice boards may also be used. Street furniture such as bus stops, lamp posts or signal boxes should not be used for such purposes.

There are several examples of case study authorities where the formalised sites approach has been adopted in varying degrees to control fly-posting. These include: Nottingham, Bradford, Manchester and Sheffield City Councils. These authorities also use other initiatives to control fly-posting. The local planning authorities concerned may have found formalised sites to be a pragmatic solution to the problem of fly posting. However, this does not necessarily mean that they are a lawful solution.

Go to table of contents

Appendix A

Legal Framework

1. Sections 224 and 225 of the Town and Country Planning Act 1990
2. Town and Country Planning (Control of Advertisements) Regulation 1992, Extract
3. Section 132 of the Highway Act (1980)

Town and Country Planning Act 1990/91

Advertisements

Enforcement Of Control Over Advertisements

224. **(1)** Regulations under section 220 may make provision for enabling the local planning authority to require

(a) the removal of any advertisement which is displayed in contravention of the regulations, or

(b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.

(2) For the purpose the regulations may apply any of the provisions of Part VII with respect to enforcement notices or the provisions of section 186, subject to such adaptations and modifications as may be specified in the regulations.

(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, *one-tenth of level 3 on the standard scale* for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of the subsection if

(a) he is the owner or occupier of the land on which the advertisement is displayed; or

(b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only

(a) of his being the owner or occupier of the land on which an advertisement is displayed, or

(b) of his goods, trade, business or other concerns being given publicity by the

advertisement, if he proves that it was displayed without his knowledge or consent.

Commentary

Amendment

The words in italics in subs. (3) were substituted by the Planning and Compensation Act 1992, Sched. 7 para.38

Definitions

advertisement: s.336(1)

enforcement notice: ss.172.336(1)

land": s.336(1)

local planning authority: s.336(1), and see below

owner: s.336(1)

prescribed: s.336(1)

use: s.336(1)

Allocations of Functions

The functions of a local planning authority under this section are exercisable only by:

In England:

Greater London: the London borough council (s.1(2));

Metropolitan areas: the metropolitan district council (s.1(2));

Unitary councils in non-metropolitan areas: the unitary council, to which will have been transferred, by order under the Local Government Act 1992, all functions of county and district councils under this Act;

National Parks: the National Park authority (s.4A(2));

Elsewhere: the district council as district planning authority (Sched. 1, para 14)

Norfolk and Suffolk Broads: the Broads Authority are the sole district planning authority for the Broads for the purposes of this section (s.5(2)).

In Wales:

National Parks: the National Park authority (s.4A(2))

Elsewhere: the county council or county borough council (s.1(1B)).

Except:

Enterprise zones: the enterprise zone authority if the function has been transferred by order under the Local Government, Planning and Land Act 1980, Sched. 32, para 5: see the

Commentary to s.6.

Urban development areas: the urban development corporation if the function of local planning authority has been transferred to the corporation by order under the Local Government, Planning and Land Act 1980, s.149(1): see the Commentary to s.7;

Housing action trust areas: the housing action trust if the function of local planning authority has been transferred to the trust: see the Commentary to s.8;

Regeneration areas: the Urban Regeneration Authority (English Partnerships) if the function of local planning authority has been transferred to the Authority under the Leasehold Reform, Housing and Urban Development Act 1993, s.171(3)(a): see the Commentary to s.8A.

General Note

Introduction

The detailed provisions governing the display of advertisements are contained in the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992 No. 666), and as amended by the Town and Country Planning (Control of Advertisements) (Amendment) Regulations 1994 (S.I. 1994 No. 2351) and the Town and Country Planning (Control of Advertisements) (Amendment) Regulations 1999 (S.I. 1999 No. 1810) made under s.220 and under this section. Policy Guidance is contained in DOE Circular 5/92 (W.O. 14/92) and DOE Circular 15/94 (W.O. 70/94), and in PPG19, *Outdoor Advertisement Control* (1992).

Irregularities In Service

In *Nahlis v. Secretary of the State for the Environment* [1995] 3 P.L.R. 95, (1995) 71 P. & C.R. 553 nine notices in identical form had been issued by Kensington and Chelsea Council to owners of freehold premises, requiring the discontinuance of the use of a flank wall for advertising hoarding. The owners appealed to the Secretary of State for the Environment, who upheld the notices. They then applied under s.288 to quash that decision, on the ground that the notices were not served in accordance with s.329. It was clear that there had indeed been irregularities in service. Not every owner had received any notice; some had received various but not all of the notices. The High Court held that it had discretion to dismiss the application. It noted that all the applicants had in fact appealed to the Secretary of State in good time. They had not been able to show any substantial prejudice. Nor was it a material defect that the Secretary of States decision letter was undated: the letter had reached the applicants or their agents in ample time to appeal, and they had not been prejudiced by this admitted sloppiness.

In *OBrien v. Croydon London Borough Council* (Q.B.D.: June 26, 1998); *The Times*, July 27, 1998) the Court held that failure to serve a discontinuance notice on the "advertiser" in accordance with reg. 8(2)(a) was not necessarily fatal to its validity, because the requirement is directory rather than mandatory.

The Offence Of Unauthorised Display Of An Advertisement

(1) Institution of proceedings

An authoritys decision to prosecute for breach of the regulations is not limited by reg.4 to cases

where it is in the interest of public safety or amenity to do so: *Kingsley v. Hammersmith and Fulham London Borough Council* (1991) 62P. & C.R.589. Nor, where there has been no material change in use of the land but only a breach of this section and the regulations, is it limited by the time restrictions under s.171B on taking enforcement action in respect of a breach of planning control, because the advertisements code is quite separate: *Torrige District Council v. Jarrad, The Times*, April 13, 1998 (Divisional Court; March 11, 1998). It is an abuse of process to bring, or continue, a prosecution under this section where the defendants have acted on the basis of an assurance by the authority's officers that no consent was required for the display of the advertisement in question: *plc v. Brent London Borough Council, The Times*, December 8, 1997; or for a local authority having lost an earlier prosecution on the issue of deemed consent, to try to relitigate the issue in the course of a fresh prosecution: *O'Brien v. Croydon London Borough Council* (Q.B.D.; June 26, 1998), where it was held that the doctrine of *autrefois acquit* would not apply.

(2) Burden of proof

In *R. v. O'Brien and Hertsmere District Council* (1997) 74P. & C.R. 264, it was held that, in a prosecution brought for the unauthorised display of an advertisement, it is for the prosecution to prove the display, and for the defence then to prove the authorisation. It was not for the prosecution to prove the absence of lawful authority, and the same principles applied whether what was claimed was express consent or deemed consent. The Divisional Court (Pill L.J. and Gage J.) in *Torrige District Council v. Jarrad, The Times*, April 13, 1998, held that a breach of the advertisement regulations did not of itself constitute a "breach of planning control" for the purposes of s.171B(3). The 1992 regulations provided a self-contained code for control of advertisements, which did not depend on the breach of control and enforcement procedures under Parts III and VII of the Act. There was therefore no room for any application of the defence in s.171B(3), and this view was supported by the existence of a different cut-off date (April 1, 1974) as the date by which, if an advertisement was in existence, there could be no complaint under the 1992 regulations.

(3) Continuing offences

The unauthorised display of different advertisements at a site constitutes a series of different offences, and not a single offence: *Kingston upon Thames London Borough Council v. National Solus Sites Ltd* [1994] J.P.L. 251, where the court held that *Hodgetts v. Chiltern District Council* [1983] 2 A.C. 120 was inapplicable, since that case dealt with a continuing offence under a planning enforcement notice comprising the same breach, but charged over different days and alleging failure by the defendant to put things to rights following his first conviction. It had no relevance to cases of wholly separate breaches of the Advertisement Regulations. The continuing offence under subs. (2) does not apply to cases where the unauthorised display of an advertisement has ceased following conviction under that section, but has recommenced some time later: *Kensington and Chelsea Royal London Borough Council v. Elmton Ltd* (1978) 246 E.G. 1011.

(4) Statutory defences

A defendant whose business was being advertised but who was not responsible for posting up the advertisements, is not entitled to rely on the defence in subs (5) where he has failed to remove the advertisements once he has acquired knowledge of their existence: *Preston v. British Union for the Abolition of Vivisection, The Times*, July 24, 1985.

Advertisements

The divisional Court, in *Wycombe District Council v. Michael Shanly Group Ltd* [1994] 02 E.G. 112, followed the unreported decision in *Merton London Borough Council v. Edmonds* (*The Times*, July 6, 1993) in holding that the words "knowledge or consent" in subs. (5) were to be read disjunctively. Hence, where an owner knew that advertisements were being displayed on his land by another person, it was still open to him to prove that he did not consent to that display. The court, though expressing the view that the contrary argument was perfectly tenable, felt compelled to follow the *Merton* case, which was founded on the assumption that to hold defendants liable immediately they could be shown simply to have known of a state of affairs ran contrary to the fundamental principles of criminal law.

Power To Remove Or Obliterate Placards And Posters

225.(1) Subject to subsections (2) and (3), the local planning authority may remove or obliterate or obliterate any placard or poster

(a) which is displayed in their area; and

(b) which in their opinion is so displayed in contravention of regulations made under section 220.

(2) Subsection (1) does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.

(3) Subject to subsection (4), where a placard or poster identifies the person who displayed it or caused it to be displayed, the local planning authority shall not exercise any power conferred by subsection (1) unless they have first given him notice in writing

(a) that in their opinion it is displayed in contravention of regulations made under section 220; and

(b) that they intend to remove or obliterate it on the expiry of a period specified in the notice.

(4) Subsection (3) does not apply if

(a) the placard or poster does not give his address, and

(b) the authority do not know it and are unable to ascertain it after reasonable inquiry.

(5) The period specified in a notice under subsection (3) must be not less than two days from the date of service of the notice.

Commentary

Definitions

"building": s.336(1)

"local planning authority": s.336(1), and see below.

"use": s.336(1).

Allocation of Functions

The functions of a local planning authority under this section are exercisable only by:

In England:

Greater London: the London Borough council (s.1(2));

Metropolitan areas: the metropolitan district council (s.1(2));

Unitary councils in non-metropolitan areas: the unitary council, to which will have been transferred, by order under the Local Government Act 1992, all functions of county and district councils under this Act;

National Parks: the National Park authority (s.4a(2)): the district council as district planning authority (Sched. 1, para. 14);

Norfolk and Suffolk Broads: the Broads Authority are the sole district planning authority for the Broads for the purposes of this section (s.5(2)).

In Wales:

National Parks: the National Park authority (s.4A(2));

Elsewhere: the country council or county borough council (s.1(1B)).

Except:

Enterprise zones: the enterprise zone authority if the function has been transferred by order under the local Government, Planning and Land Act 1980, Sched. 32, para. 5: see the Commentary to s.6

Urban development areas: the urban development corporation if the function of local planning authority has been transferred to the corporation by order under the Local Government, Planning and Land Act, 1980, s.149(1): see the Commentary to s.7;

Housing action trust areas: the housing action trust if the function of local planning authority has been transferred to the trust: see the Commentary to s.8;

Regeneration areas: the Urban Regeneration Authority (English Partnerships) if the function of local planning authority has been transferred to the Authority under the Leasehold Reform, Housing and Urban Development Act 1993, s.171(3)(a): see the Commentary to s.8A.

General Note

This section, which derives originally from the Local Government (Miscellaneous Provisions) Act 1982, s.36, establishes control over fly-posting, by enabling the authority to remove or obliterate any placard or poster without notice where it does not identify the person who displayed it, and otherwise after giving at least two days notice to such person.

Modification In Relation To London

This section is modified by the London Local Authorities Act 1995, s.10 in relation to call London authorities (except Tower Hamlets), by the substitution of new subss. (3) to (9) for existing subss. (3) to (5). The substituted provisions authorise the relevant council to require the obliteration or removal of any placard or poster, and to take such steps themselves in default.

Sections 11 to 15 of the act confer additional power upon London authorities in relation to unauthorised advertisements and signs.

Town and Country Planning (Control of Advertisements) Regulations 1992: Department of the Environment Circular 5/92 (Welsh Office Circular 14/92) Part V: Unauthorised advertisements (Paragraphs 51-59)

Fly-Posting

The requirement in the "standard conditions" (Schedule 1) to obtain the site-owners permission to display any advertisement is intended to enable LPAs to deal effectively with fly-posting, that is, the display of advertisements without the consent of the owner or occupier of the land or premises. The view is taken that such advertisements are entirely unauthorised; and their display entails liability not only on the person actively responsible for putting up the advertisement but also, with certain reservations in their interests, on the owner of the land and the person benefiting from the display. There have been successful prosecutions against those who have been responsible for events advertised by means of fly-posting; but section 224(5) of the 1990 Act provides that the owner or occupier of the land on which there is fly-posting, or the person whose goods or activities are advertised, shall not be guilty of an offence if that person can prove that the fly-posting was done without their knowledge or consent.

Prosecuting Fly-Posters

LPAs may find the following procedures useful as means of bringing successful prosecution of fly-posting under section 224(3) of the 1990 Act:

- (1)** enforcement officers duties should include keeping regular watch for any new fly-posting;
- (2)** enforcement officers should note all new fly-posting sites, photograph them (and date the photographs) and, where possible, remove a copy of the illegal poster for exhibition in Court:
- (3)** the LPA should take positive steps to find the person who benefits from the advertisement, either by a personal call from an enforcement officer at an address shown, or on the company who printed the posters, or by enquiring at the venue of the function (perhaps necessitating a visit to the function out of normal working hours);
- (4)** the LPA should advise the person responsible, usually the organiser of an advertised event, that the posters contravene the Control of Advertisements Regulations and give that person a detailed description of the places where they are displayed. (This should be confirmed by recorded delivery letter and the person responsible asked to remove the advertisements);
- (5)** if the posters are not removed within the reasonable time, the LPA should issue summonses; and

(6) with guidance from the authority's legal adviser, the enforcement officer should prepare a brief statement, supported by photographs and/or copy of the poster and a copy of the recorded delivery letter which warned the person responsible that the event had been illegally fly-posted. LPAs using these procedures have been able to satisfy Magistrates Courts that adequate warning was given, so that the organiser or promoter could no longer claim to be unaware of the illegal advertising. Quite frequently the preliminary warning letter (sub-paragraph (4) above) has been enough by itself to ensure that posters are removed. (Because some events which are advertised by fly-posting are held in premises owned by local authorities, it would help LPAs to adopt a policy or warning prospective hirers or municipally owned premises that they must not advertise any event in this unauthorised way.)

Removing Or Obliterating Certain Advertisements

LPAs are reminded that section 132 of the Highways Act 1980 enables the highway authority to remove pictures or signs affixed to trees, structures or works in the highway. Section 225 of the 1990 Act enables a district council or London borough council "to remove or obliterate any placard or poster" displayed illegally in their area. Before this power can be exercised, sub-sections (3) and (5) require advance written notice to be given, to anyone who can be identified as the person responsible for the display, that

(1) in the LPA's opinion it is displayed illegally, and

(2) The LPA intend to remove or obliterate it after the expiry of a period specified in the notice.

Sub-section (5) specifies the period of advance notice as "not less than two days from the date of service of the notice" *Thus two clear days after the date when the notice is served must be allowed before the LPA proceed to remove or obliterate the display.* In practice, a LPA may prefer to allow longer than the minimum period of two clear days; and may do so.

The main purpose of this advance notice procedure is to enable anyone who genuinely believes that the poster or placard is being displayed with either deemed consent, or an express consent, to tell the LPA that this is the case; and, and if he wishes, to ask them to reconsider their intention to remove the placard or poster. Because this procedure may involve a LPA in abortive administrative work in trying to trace the whereabouts of the person due to be notified, sub-section (4) of section 225 has the effect of specifically exempting the LPA from giving notice where the placard or poster does not give the address of the person displaying it (as well as his name) and the LPA do not know that address and are unable to ascertain the relevant address after making reasonable inquiry about it. What is reasonable inquiry is a matter for each LPA to determine in the particular circumstances. When the placard or poster identifies the person displaying it as someone (including a commercial concern) well known nationally or locally, but does not give an address, it would appear reasonable for the LPA to give advance notice of their intention which they can readily obtain, or already know, the relevant address to which the notice should be sent.

There is no definition of the terms placard and poster in section 225. It is therefore a matter for the LPA and, eventually, the Court to decide on the facts of each case. If a placard or poster is displayed by means of securing it temporarily to an A-board, it would appear that the power applies only to the placard or poster and not to the A-board itself.

Powers Of Entry

Section 324(3) of the 1990 Act deals with rights of entry on to land or premises. This subsection gives a district councils duly authorised officer a power, at any reasonable time, to enter land or premises for the purpose of exercising the power in section 225 provided that the land or premises are unoccupied; and the power cannot be exercised without entering the land or premises.

Removing Painted Signs

The power to remove or obliterate does not apply to painted signs, slogans or expressions which appear on buildings, walls or street furniture. However, the Secretary of State urges LPAs to take whatever steps they consider appropriate to remove such expressions (especially any intended to incite racial or religious hatred) as part of their normal cleaning and environmental improvement functions in their area.

Profits From Illegal Advertising

In prosecuting any contravention of the Regulations, LPAs may wish to bring to the Courts attention the likely amount of profit accruing for the illegal display of an advertisement. This will help Magistrates to assess (within the statutory limits) a penalty commensurate with the offence. Since it is a well-established principle of sentencing that the financial benefit of any offence should not outweigh the penalty, LPAs are advised to include any relevant information about profits when presenting a case to Magistrates.

Part II Highways Act 1980 Part IX (ss.131-134) Unauthorised marks on highways

132.(1) A person who without either the consent of the highway authority for the highway in question or an authorisation given by or under an enactment or a reasonable excuse, paints or otherwise inscribes or affixes 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 is guilty of an offence and liable to a fine not exceeding [level 4 on the standard scale].

(2) The highway authority for a highway may, without prejudice to their powers apart from this subsection and whether or not proceedings in respect of the matter have been taken in pursuance of subsection (1) above, remove any picture, letter, sign or other mark which has, without either the consent or the authority or an authorisation given by or under an enactment, been painted or otherwise inscribed or affixed upon the surface of the highway or any tree, structure or works on or in the highway.

Derivation

1976, s.5

Definition

enactment: s.329(1.)

highway: s.328(1.)

Amendment

The figure in square brackets in subs. (1) was substituted by the Criminal Justice Act 1982. Ss.35. 38 and 46

General Note

This section authorises the removal of unauthorised graffiti from the surface of a highway and

from tress, structures or works on or in a highway, and creates a criminal offence.

[Go to table of contents](#)

Appendix B

General Good Practice: Organisation and Management

1. Telephone Hotline Poster (Manchester City Council) (see link to the right)
2. Bromley article Firm Incurs Heavy penalty for Notice, Newshopper, 1999 (see link to the right)

[Go to table of contents](#)

Appendix C

Prosecution

1. [Warning Letter Bromley Borough Council \(see link to the right\)](#)
2. [Warning Letter Manchester City Council \(see link to the right\)](#)
3. [Statement of Witness Nottingham City Council \(see link to the right\)](#)

[Go to table of contents](#)

Appendix D

Prevention

1. [Warning Notice Westminster City Council \(see link to the right\)](#)
2. [Publicity Leaflet Westminster City Council \(see link to the right\)](#)

Go to table of contents

Appendix E

Useful Contacts

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