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SCRUTINY REPORT

FLYPOSTING – SCRUTINY REPORT

**Joint Task Group Report –
Housing and Planning Policy Scrutiny Committee
Worcestershire County Council’s Environmental Scrutiny Panel
April 2005**

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BROMSGROVE DISTRICT COUNCIL
FLYPOSTING TASK GROUP REPORT

APRIL 2005

MEMBERS

Councillors Miss D. H. Campbell (Chairman), Mrs. A. E. Doyle, W. R. Newnes and S. P. Shannon.

County Councillor Mrs. S. J. Bushby.

TERMS OF REFERENCE

A Scoping Report relating to Flyposting was submitted to the Meeting of the Housing and Planning Policy Scrutiny Committee on the 9th September 2004. It was decided at that meeting that a Task Group would be formed consisting of the four District Councillors above, as well as inviting one or more members from Worcestershire County Council to be part of the Task Group, to consider the cross-cutting issue of flyposting.

Worcestershire County Council was contacted and members of the Environmental Scrutiny Panel were asked if they would like to join the Flyposting Task Group. County Councillor Mrs. S. J. Bushby agreed.

Please see Appendix I for a list of those who were consulted.

PURPOSE OF REPORT

This report gives information on the work undertaken by the Flyposting Task Group to address the issue of flyposting in the District of Bromsgrove.

BACKGROUND AND METHODOLOGY

The first meeting of the Task Group took place on the 6th October 2004 at which we received a presentation from Mr. Rocke (Bromsgrove District Council's Community Safety Partnerships Officer) relating to what the Council was currently doing to stop flyposting.

We were already aware that two main methods of dealing with flyposting were under the Town and Country Planning Act 1990 (by Bromsgrove District Council) and under the Highways Act 1980 (by Worcestershire County Council)

It was explained that flyposting had always been a difficult issue to tackle, however, one relatively new approach was under the Anti-Social Behaviour Act 2003 which had been used by Camden Council. It was reported that after liaising with Camden Council, who offered advice and guidelines, a team of officers at Bromsgrove District Council was set

up, which included representatives from Legal Services, Community Safety, Planning Enforcement, Administrative Services, Worcestershire County Council's Highways Partnership Unit and West Mercia Police. This Group agreed that a warning letter should be issued to flyposting offenders and if persistent offenders did not stop flyposting then they would be targeted with an Anti-Social Behaviour Order (ASBO). An ASBO has to target an individual not a company.

We were informed that evidence needed to be gathered and that Neighbourhood Wardens were taking digital photographs of the posters which recorded the time and date. Witness statements were also being taken from anyone who had seen such posters. All posters that were removed were retained as evidence and the Council had support from the County Council's Highways Partnership Unit who also agreed to assist with gathering evidence. All evidence was being stored on a database ready for the Council to seek an ASBO against a prolific offender.

Other points were discussed at this meeting such as "deemed consent advertisements" and how other local authorities dealt with the issue of flyposting.

At the second meeting of the Task Group on the 28th October 2004, we welcomed County Councillor Mrs. Bushby as a member of the Group. We considered the final draft of the Council's Flyposting Warning Letter and Action Flow Chart and asked that amendments be made to the Warning Letter. We also agreed that the Action Flow Chart be approved as the basis of the policy for prosecuting those who flypost within the District.

It was also stated at the second meeting there was now an email address flyposting@bromsgrove.gov.uk which could be used to report flyposting, or members of the public could telephone 01527 881423.

We decided to invite representatives from Worcestershire County Council's Highways Partnership Unit to the next meeting of the Task Group which was scheduled to be held on the 15th November 2004. Unfortunately, County Councillor Fallows was unable to attend due to a prior engagement; however, Mr. Twaite (Highways Partnership Unit Manager) was present to discuss how the two Councils could work together to reduce incidences of flyposting.

Mr. Twaite explained to the Group the problems the Highways Partnership Unit (HPU) faced when trying to deal with flyposting under the Highways Act 1980. It was reported that the approach was very time-consuming and not cost-effective. Therefore, Mr. Twaite agreed that the Highways Partnership Unit would give their full support to Bromsgrove District Council's Community Safety Partnership in dealing with flyposting under the Anti-Social Behaviour Act 2003 by agreeing: (i) to allow District Council Officers to remove posters from highways apparatus; and (ii) to assist with gathering evidence against flyposting offenders for the District Council.

The Task Group approved the **Flyposting Policy**, Warning Letter and Action Flow Chart (see Appendix II) on the 15th November 2004 and it was agreed that a report with the three documents attached should be submitted to the Housing and Planning Policy Scrutiny Committee.

Members of the Flyposting Task Group were invited to a meeting on the 22nd November 2004 with Mr. Campbell, Enforcement Manager at Westminster City Council whose work included dealing with flyposting and graffiti. We learnt from Mr. Campbell how other authorities tackled flyposting and they included Westminster City Council, Nottingham City Council, Birmingham City Council and Leicester City Council. For a list of suggestions which came from this meeting, please refer to Appendix III. It was Mr. Campbell's opinion that Bromsgrove District Council seemed to have a good proposed approach (i.e. our Flyposting Policy).

A report recommending the **Flyposting Policy**, Warning Letter and Action Flow Chart (see Appendix II) be approved and adopted was submitted to the Housing and Planning Policy Scrutiny Committee and in turn the Committee agreed that a report should be submitted to the Executive Cabinet. On the 15th December 2004, the Executive Cabinet agreed that the Flyposting Report be approved including the policy of sending out warning letters in advance of instituting prosecution proceedings to secure ASBOs where there was evidence.

We invited representatives from Educational Services at Worcestershire County Council to enable us to discuss ways in which we could communicate with schools to ensure they were aware what the consequences were of flyposting and ways in which they could advertise school events legally. Unfortunately, although contacted on numerous occasions, the Director of Educational Services stated that no one from the department was available to attend any meeting of the Flyposting Task Group and went on to state that Educational Services did not provide a central resource of advice for schools and therefore could not disseminate information or advice to schools in the County. Therefore, at our meeting held on the 6th April 2005, we discussed this issue and agreed that a letter would be sent to the Headteacher of each school in the District and would include the following:

- Information on what is flyposting;
- Information on Bromsgrove District Council's Flyposting Policy which had recently been approved and adopted; and
- Details of who to contact at Bromsgrove District Council for further advice.

At the meeting that took place on the 6th April 2005, we also had a talk from and discussion with Mr. Thompson, Environmental Crime Unit Manager from Birmingham City Council. It was reported that Birmingham City Council had decided to use a different approach which was civil injunctions. It was apparent that authorities up and down the Country had conflicting views on how best to deal with flyposting. However, we learnt that Birmingham City Council and Bromsgrove District Council, as well as other neighbouring authorities, were part of the West Midlands Working Group which enabled authorities to share information relating to flyposting issues. It was also agreed that both Bromsgrove District Council and Birmingham City Council were happy to not only share information but work together to deal with offenders who were flyposting in both areas in the future.

Mr. Rocke, Community Safety Partnerships Officer at Bromsgrove District Council, reported at our last meeting in April 2005 that at the present time, the process we had adopted was successfully working at a simplistic level. The first stage of the 3-stage process of dealing with flyposting was to contact the flyposting offender either by telephoning or visiting to inform them they were flyposting and explaining possible

consequences of the illegal act. This initial stage of the process had been so successful that the rest of the process had not yet been required (i.e. sending out warning letters followed by prosecution if necessary).

We had previously agreed that a brief information fact sheet should be produced outlining what is and is not permissible, which could be sent out with warning letters. However, due to the first stage of the process working so well and the fact that, at present, not one warning letter had to be sent out, it was felt the information fact sheet was not necessary at this time.

FUTURE REVIEW

Due to the successfulness of the adopted flyposting process, the Task Group members have agreed that we should reconvene in 6 months time to: review the flyposting situation; consider whether the new National Best Value Performance Indicator (BVPI) targets are being achieved; and consider whether other suggestions made by the Group are required such as an information fact sheet.

For a brief summary of information on Flyposting, please see Appendix IV

Signed on Behalf of the Flyposting Task Group

Councillor Miss D. H. Campbell
Chairman of the Flyposting Task Group

Contact Officer

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E Mail: d.mccarthy@bromsgrove.gov.uk
Tel: 01527 881407

A List of Individuals the Task Group Consulted

1. Mr. R. Rocke, Community Safety Partnerships Officer

Mr. Rocke attended all the Flyposting Task Group Meetings as he is the Officer at Bromsgrove District Council who is responsible for dealing with the issue of flyposting.

2. Highways Partnership Unit (Worcestershire County Council)

County Councillor Fallows and a representative from Highways Partnership Unit (HPU) were invited to one meeting of the Task Group. Unfortunately, due to a prior engagement, County Councillor Fallows was unable to attend. However, Mr. Twaite, the HPU Manager was able to attend.

3. Mr. R. Campbell, Enforcement Manager at Westminster Council

A meeting was set up by Mr. Rocke for him to meet and discuss the issue of flyposting with Mr. Campbell. Task Group members were invited to attend.

4. Mr. G. Hancox, Anti-Social Behaviour Co-ordinator

Mr. Hancox attended the meeting Mr. Rocke arranged with Mr. Campbell.

5. Educational Services, Worcestershire County Council

The Director of Educational Services at Worcestershire County Council was contacted on numerous occasions. Unfortunately, the Director's response was that no one from that Department was available to attend any meeting of the Flyposting Task Group.

6. Mr. R. Thompson, Environmental Crime Unit Manager at Birmingham City Council

Mr. Thompson was invited to attend the most recent meeting of the Task Group to talk about how Birmingham City Council tackles the issue of flyposting and to discuss Birmingham City Council working in partnership with Bromsgrove District Council on this issue.

Policy for dealing with Fly Posting within Bromsgrove District

1. Designated, Responsible Officer to be advised of fly posting occurring within Bromsgrove District.
2. Photographic evidence and witness statements assembled together with samples of posters collected. Evidence to be entered on Data Base within Community Safety Team
3. Where practical, Anti Social Behaviour Officer (accompanied by a Police Officer where deemed necessary) will visit company/individual identified as perpetrator to request they remove posters. A 24 hour time frame given to remove posters

A letter explaining the 2003 Anti Social Behaviour Law in relation to Fly Posting to be handed over at time of meeting.

4. If a personal visit cannot be made then a warning letter, agreed by BDC Legal Team and Members to be issued by Head of Community Safety.
5. Should the person or organisation visited by the ASB Officer or issued with a warning letter continue to fly post, a decision will be made by Bromsgrove District Council Legal Dept. as to the form of action to be taken. This could involving seeking a fine and costs or in extreme cases of persistent fly posters, the taking out of an Anti Social Behaviour Order against the owner, manager or chief executive of the organisation.
6. Evidence to be assembled using time/dated digital images as well as witness statements from Council Officers and residents.
 - (i) Responsible Officer is currently either the Anti Social Behaviour Officer or Community Safety Officer within the Community Safety Team
 - (ii) Information collated via BDC Officers or Residents
 - (iii) In addition to warning letter, a do's and don'ts about Fly Posting to be handed over for information

WARNING LETTER

Illegal Fly Posting

Bromsgrove District Council is concerned that your company is engaging in Illegal fly-posting in the District, as can be seen from the enclosed evidence.

Illegal fly posting is an eyesore around the Bromsgrove District and a problem about which our residents – your customers – feel very strongly. Posters attract graffiti and send out a signal that the area is uncared for and can exacerbate people's fear of crime.

Under Section 132 of the Highways 1980 it is an offence to fix a sign on the public highway or on any highway structure. The company which benefits from the advertisement – your company - commits the offence. The fine on successful prosecution is up to £2,500 per poster.

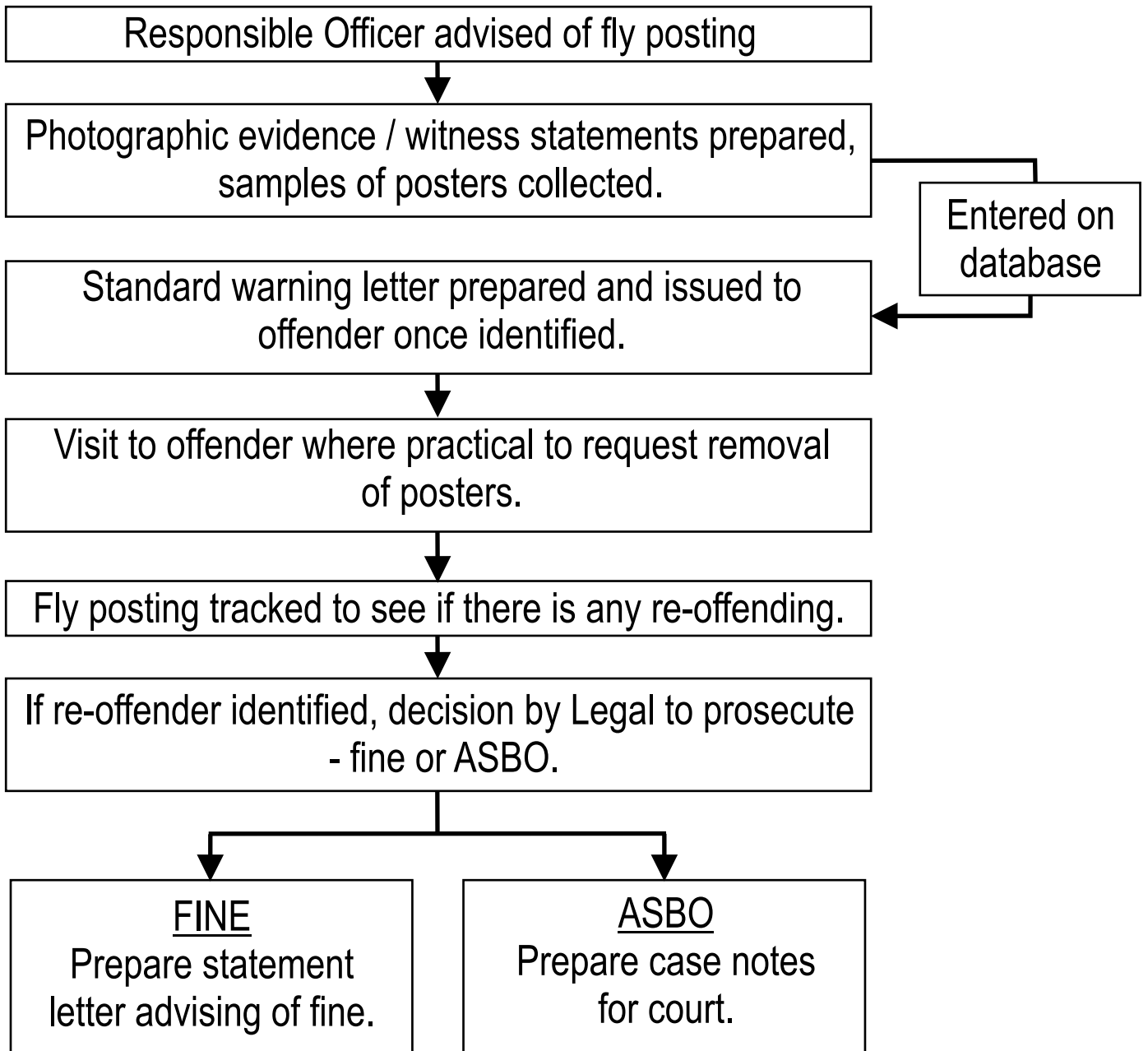
Fly posting is also listed in the Anti-Social Behaviour Order Act of 2003. Using the powers of this Act, Bromsgrove District Council will not hesitate to seek an Anti Social Behaviour Order against the owner or chief executive of an organisation who is guilty of persistent fly posting. As part of our commitment to the eradication of illegal fly posting in the Bromsgrove District, we will continue to gather evidence, removing illegal posters and pursuing legal proceedings relating to these offences.

However, we **are prepared to treat this an isolated incident** and not pursue a prosecution against you on this occasion. We must stress that should this warning be ignored, the Council will not hesitate to take legal proceedings against those involved

Yours etc

John Moody
Head of Community Safety

Fly Posting Action Flow Chart



**Summary of the Suggestions made at the meeting with
Mr. R. Campbell (Enforcement Manager at Westminster Council)
held on the 22nd November 2004**

- Use the legislation covering litter - Section 87 of the Environmental Protection Act (1990) - to tackle flyposting if current resources allowed
- Charge offenders with the removal of posters which is proportional to the removal cost incurred by the Council (e.g. £10-£20 per poster)
- Not to give permission to use council owned land to event organisers who flypost
- Add a condition to builders' scaffolding licences that they are not allowed to flypost on scaffolding structures (Planning Department need to be consulted on guidance currently given to developers and whether this needs to be amended in the future)
- A common flyposting policy to be rolled out countywide with variations to cover specific problems in various parts of the county
- The possibility of giving permission to charity and school events for a day or two and requesting they take down the advertisements immediately after the event
- To work with other authorities in the County and Birmingham City Council. The top 5 persistent offenders be listed by each Council across the County to see if they match to enable joint action to be taken
- To liaise with the Licensing Section to ensure licensees of venues who flyposted could be easily identified (now that licensing laws were changing and councils were taking responsibility)
- General guidelines be compiled and issued to candidates and political parties who would be asked to agree that all posters would be removed as soon as possible after an Election and any seen as a highway hazard would be removed immediately
- Using anti-flyposting and anti-graffiti coatings on telephone cabinets – BDC could offer telephone companies a percentage towards the cost so to save on their cleansing contract e.g. 20% (dependent on this issue being consistent with the council's priorities and the approval of the Executive Cabinet)
- Leisure Department are looking into graffiti problems in parks and this could be looked into further at some point in the future
- Name and shame companies on the website who do not cooperate with the Council re flyposting and congratulate those companies who do via the press

Brief Summary of Information from the Flyposting Task Group

What is flyposting?

Flyposting is the posting of stickers, posters and other advertising without the consent of the owner of the property.

Main Methods of dealing with flyposting

Flyposting is an offence under the following legislation:

- Section 224(3) of the Town and Country Planning Act 1990 (by Bromsgrove District Council) – posters on windows and walls etc of a property
- Highways Act 1980 (by Worcestershire County Council) – posters on highways apparatus and trees
- From the 31st March 2004, Sections 43 to 53 of the Anti-Social Behaviour Act 2003 (by Bromsgrove District Council) – posters not on private land (although permission is needed by Worcestershire County Council's Highways Partnership Unit for District Council Officers to take down posters on highways apparatus).
Note: Anti-Social Behaviour Orders target an individual rather than a company.

Levels of Fines

Some examples are:

A recent case in Sunderland where 53 posters had been put up, the offenders were fined £100 per poster plus £1,500 costs.

Manchester City Council won a case against Vertigo Distribution Ltd and the company was fined £15,000.

Birmingham City Council have also recently been successful against a furniture company who was fined £5,000

West Midlands Working Group

Bromsgrove District Council is part of the West Midlands Working Group which enables authorities to share information relating to flyposting issues.

Police Involvement

West Mercia Police have recently recruited Community Officers who are being trained on all on-the-spot fines as well as the Anti-Social Behaviour Act. It was Mr. Roche's opinion that the Police could be the "eyes and ears" and he was in no doubt that they would assist in that way.

Advertisements normally permitted

The following information is from the document called "Outdoor Advertisements and Signs: A Guide for Advertisers" published by the Department of the Environment, Transport and the Regions and the National Assembly for Wales.

An outdoor advertisement is permitted for display without the planning authority's specific consent if:

- *The effect of the rules is to exclude it from control entirely.*
(There are 10 different classes of advertisement which are completely excluded from the planning authority's control provided certain conditions are fulfilled. One example is advertisement relating specifically to a pending Parliamentary, European Parliamentary, Welsh Assembly or local government election. These advertisements must not be displayed more than 14 days after the close of the poll.)

- *It comes within the provisions of one of the 14 classes of deemed consent specified in the rules.*
(This includes directional advertisements permitting house-building firms to put up temporary directional signs, telling potential house-buyers and other visitors how to reach a site where new residential development is taking place provided certain conditions are fulfilled.)

For further information please go to the Office of the Deputy Prime Minister website www.odpm.gov.uk or click on the direct link below:
http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/pdf/odpm_plan_pdf_606218.pdf

Contact Details

To report an incidence of flyposting contact the Council by telephoning 01527 881423 or emailing flyposting@bromsgrove.gov.uk.

Mr. Graham Rocke - Community Safety Partnerships Officer
Direct Line: 01527 881486