



Regulatory Committee

10th June 2021

Subject: Motion referred from Full Council – 25 January 2021 - Fly Posting - Regulatory Powers

Report by:	Assistant Director – Change Management & Regulatory Services
Contact Officer:	Andy Gray Housing and Enforcement Manager andy.gray@west-lindsey.gov.uk
Purpose / Summary:	To provide Regulatory Committee with an overview of powers in relation to Fly Posting in response to the motion presented to Council on 25 January 2021.

RECOMMENDATION(S):

Committee are asked to agree:

- a) That the current approach to dealing with fly-posting is sufficient and is reflective of the scale of the issue and the harm it causes.
- b) That additional communications be developed to make residents aware of our powers in relation to fly-posting.
- c) That fly-posting is considered as part of the broader Public Space Protection Order work due to be undertaken for Gainsborough.

IMPLICATIONS

Legal:

The powers available to the Council to address fly-posting are outlined in section 3 of the report. There are a number of legislative powers available currently under the Town and Country Planning Act 1990, The Clean Neighbourhoods Act 2005 and the Anti-Social Behaviour, Crime and Policing Act 2014.

Financial : FIN/17/22/SSc

No financial implications arising from this report

Staffing :

None noted

Equality and Diversity including Human Rights :

None noted

Data Protection Implications :

None noted

Climate Related Risks and Opportunities :

Fly-posting is not only detrimental to the appearance of the locations in which it occurs, it also creates additional waste due to the methods used for distributing material. For example, when parked cars have flyers placed onto them on a mass scale, a proportion of these will not be disposed of appropriately and will have a detrimental effect on

Section 17 Crime and Disorder Considerations :

The relevant legislation provides for criminal proceedings to be taken forward should offences be committed.

Health Implications:

None noted

Title and Location of any Background Papers used in the preparation of this report:

Motion submitted to Council – 25 January 2021

Risk Assessment :

The following risks may occur should the recommendations be taken forward:

Increase in reporting: should there be a significant increase in reporting the Council may need to consider the resources available to deal with this type of issue.

Reputational: Given the limited number of incidents and lack of reporting, it does not appear that there is a reputational risk in relation to this issue.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1. Introduction

- 1.1. At Full Council on the 25th January 2021 , a motion was put forward by the Liberal Democrat Group requesting that “the exploration of enforcement of current laws is looked at and further restrictions or a total ban on fly posting across the district is made subject to a local by-law”
- 1.2. In response to this motion it was agreed that a paper would be presented to Regulatory Committee, within which the powers available would be explored, along with the scale of the issue within the District.
- 1.3. The Motion is set out in full below

Fly Posting

“Mr Chairman, recently the Circus visited the town of Gainsborough, and despite the current restrictions had a period of putting on shows.

Everyone would expect them to advertise their presence before arrival and display of posters in shops and so on is acceptable.

What is not acceptable is the amount of fly posting that was done by the Circus, not only to advertise their coming to Gainsborough; but also as they prepared to leave fly posting as to where their next stop would be.

The fact is that even if an occasional fly post was put up that would not really be acceptable, but what happened was the Circus put up three, four or five posters in one single location. Empty shop fronts were targeted and these posters once put up will over time deteriorate and then become litter, to say nothing of the eye-sore they are in situ.

Gainsborough was not the only settlement targeted; other places too had the fly posting and it is not an isolated incident. Other events are known to fly post all over the district. While we want the attractions, they advertise, to come in to the district it is the mess left behind of these fly posts, and where there are multiple posts in one location it causes more and more of an eye sore and eventual litter. Fly posts are rarely if ever taken down after events by those who place them in many locations most of which are not appropriate.

The Liberal Democrat Group collectively, and hopefully joined by other Members of the Council, as we are all affected by this; would like to move that a more robust stance be taken against any fly posting in the district and while accepting there are some current rules and

regulations, we would like to see these firstly enforced, as they clearly are not being at the present; and secondly enhanced and made tougher.

The Council can put in place local by-laws on such matters as these and we would like to see options to do this with a possible ban on fly posting across the district to be explored and then enacted.

The cost of clearing up after these fly posts, which become litter, will be saved and then can be used to bring enforcement of a by-law. Once the knowledge is broadcast, we will substantially reduce this unwarranted and unnecessary wanton street vandalism, for that is what it is.

We therefore move the exploration of enforcement of current laws is looked at and further restrictions or a total ban on fly posting across the district is made subject to a local by-law.

We so move, collectively as a Liberal Democrat Group.”ⁱ

1.4 The Minutes arising from that meeting can be viewed at: -

<https://democracy.west-lindsey.gov.uk/documents/g2390/Printed%20minutes%2025th-Jan-2021%2019.00%20Council.pdf?T=1>

2. Context

2.1. 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, and contrary to the law. Fly-posting can occur in any location but is particularly prevalent in urban areas. It can be unsightly, if not removed after the advertised event and is often seen as symptomatic of low environmental quality. Fly-posting is also where posters and fliers are put on property and vehicles without permission.

2.2. The activity that prompted the motion to be presented to the Council was the advertisement of the travelling circus, which traditionally targets a wide range of locations and uses various methods of advertisement including the attaching of posters to buildings and the leafleting of vehicles.

3. Current Approach

3.1. There are powers available for the removal of fly-posting, which are summarised below;

- a) Under section 225 of the Town and Country Planning Act 1990, where a placard or poster identifies the person who displayed it or caused it to be displayed, the District Council may serve notice on them to remove it. This may be in addition to any prosecution. Where the person served with the notice does not remove the advert, or where the Council cannot trace a relevant person, it may remove or obliterate the advert.
- b) The District Council has also has a power to issue a Fixed Penalty Notice for these offences under the Clean Neighbourhood Act 2005
- c) The Council also has a power to issue a community protection notice to a property owner under section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 which would require them to remove the fly-posters if their conduct is unreasonable and having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality.
- d) Illegal adverts on street furniture or on structures beside highways can be removed by the County Council under section 132 of the Highways Act 1980.

3.2. For approach a), the Council's Planning Enforcement Officers seek to resolve this using the relevant legal power. This type of fly posting is not the fly-posting referred to that is causing concern within the Council motion. This normally relates to the advertising of businesses or events near to a highway and is separate to the distribution of printed matter and the more traditional fly-posting that is referred to.

3.3. The Enforcement Officer within the ASB Team is the officer that deals with these reports when they are made to the Council. There is an online reporting form and information in relation to Fly-Posting on the Council's website.

4. Evidence

4.1. In order to consider the appropriate response to this motion the reports relating to fly-posting received within the last two years have been considered.

4.2. Since April 2018 there have been 2 reports of fly-posting received, one in Gainsborough East and one in Scotter.

4.3. There has not been any proactive work undertaken to understand the full scope of this issue across the District in relation to fly-posting on empty commercial units alongside other specific locations.

5. Other Options Available

5.1. The Council could consider, subject to the necessary evidence to support it, whether a Public Space Protection Order (PSPO) is necessary to address the issue of fly-posting. This would be enabled under the Anti-Social Behaviour, Crime and Policing Act 2014 and is a regulatory power that the Council has utilised to address other issues within the District.

5.2. A proactive communications campaign to raise awareness of fly-posting may also help to assess the scale of the issue across other areas of the District.

5.3. Direct contact could also be made with the organisations who have been cited as contributing to this issue to make them aware of the impact that it has locally.

6. Summary

6.1. Currently, based on the evidence there does not appear to be a major risk in relation to fly-posting, which is reflected in the level of reporting.

6.2. Certain businesses pose a specific risk, due to the type of activity they operate and the way in which they advertise it. Specific efforts need to be taken to deal with these businesses.

6.3. The Council's existing powers provide the scope to deal with this issue effectively and alongside this further powers in the form of a PSPO can be considered in the future.

7. Recommendations

Committee are asked to agree:

- a) That the current approach to dealing with fly-posting is sufficient and is reflective of the scale of the issue and the harm it causes.
- b) That additional communications be developed to make residents aware of our powers in relation to fly-posting.
- c) That fly-posting is considered as part of the broader Public Space Protection Order work due to be undertaken for Gainsborough.

Appendix 1 – Images provided within Council Motion



ⁱ Supporting images had been circulated.