

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR
OF REGULATION AND ENFORCEMENT**

TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

23 JUNE 2021
ALL WARDS

TACKLING ILLEGAL PLACARDING

1. Summary

- 1.1 This report summarises the work undertaken by trading standards in 2020/21 to tackle illegal placarding (fly-posting), either placed on street furniture or on private property.

2. Recommendations

- 2.1 That the reported be noted.

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3. **Background**

- 3.1 Illegal Placarding, ('Fly-Posting') can typically be posters, placards or banners. They are used to advertise businesses, services or sometimes specific events and are placed on street furniture such as lampposts, traffic lights, railings and other signs and receptacles.
- 3.2 The presence of these placards spoils the local environment and street scene for the community. They can also be a danger to road users by limiting the line of sight, as well as giving a poor image of the city to visitors driving into the city.

Further, there is a significant consumer protection perspective when the only contact for these businesses is the use of a mobile telephone. Clarity of the business' details are important for consumers if things go wrong, as experienced by Trading standards who have found difficulties identify some individuals who are using this platform to advertise their business.
- 3.3 Unauthorised placarding creates an unfair advantage over competing businesses who utilise legitimate forms advertising to promote their goods and services.
- 3.4 Consequently, there is concern that unscrupulous traders will use this ploy and not reveal their true identity or address.
- 3.5 Placing placards on the public highway or affixing to Birmingham City Council causes damage to "Street Furniture", and there is cost to the public purse associated with the repair and for removing the placards.
- 3.6 The issue has been addressed by Regulation and Enforcement in previous years. Last year, Trading Standards were tasked with tackling the issue and bringing the perpetrators into compliance.

4. **Legislation**

- 4.1 Any person who places signs on a public highway or affixes them to structures on the highway (such as trees, lampposts and street railings) without authorisation, commits an offence under Section 32 of The Highways Act 1980, which can result in a fine of £100 or £200 for repeat offending.
- 4.2 The Act also gives powers to authorised officers to remove such signs from the public highway and structures they are on.
- 4.3 In addition, Section 224 and 225 of The Town and County Planning Act 1990 provides further offences provisions where the person responsible can be identified; a notice can be served on them to remove the placard. Offences under this Act can result in a fine up to £2,500.

- 4.4 In cases where a person persists or continues to display illegal placards advertising their business, this can be deemed to have a detrimental effect on the quality of life in the local area with unwanted placards attached to lampposts and street railings. As such, this can result in the serving of a Community Protection Notice under the Anti-Social Behaviour Crime and Police Act 2014. Breach of an order can result in a fine of up to £2,500 for an individual or up to £20,000 for a company.

5. Approach

- 5.1 Where placards were located, they would be photographed in-situ and removed. Where a phone number was displayed, the number would be called and the person responsible would be advised this was an illegal practice.
- 5.2 Where, following this call, the person identifies themselves and their business, an advisory letter would be sent. The letter would also request that all adverts were removed by them as quickly as possible.
- 5.3 Following subsequent exercises, if placards relating to the same business were found, a further warning letter would be sent advising the person responsible that a fine and/or Community Protection Notice may be served if placarding continues.
- 5.4 If placards of the same business continued to be displayed and a person has been previously warned and new further placards were found to have been displayed, consideration would be given to serving a Community Protection Notice.
- 5.5 Where a business identified was of a type such as gardening, builders, driveways, roofers, the advisory letter would be accompanied by further guidance leaflets on Trading Standards legislation.

6. Findings

- 6.1 Trading Standards have conducted four exercises over the last year tackling placards across the city.
- 6.2 The first of these exercises took place in July 2020 where officers went to locations where placards had been identified.
- 6.3 In this exercise, over 120 placards were removed and some 35 different individuals/businesses identified. The businesses were of a wide variety ranging from builders, gardeners, driveways, kitchen fitting/suppliers, blinds and even tuition providers.



- 6.4 With some of the placards, the identity and business names of the trader is clearly identified and they can also be found on the internet. However, with other examples there is just a phone number. In nearly all the cases, officers were able to call the telephone numbers stated on the placard and advise the person responsible, following up with a letter. In some cases, the person responsible was not aware this practice was illegal, apologised and undertook not to put up any more placards.
- 6.5 Only in one or two cases was no contact made. This may have been for an old placard where the person no longer used the number. In one or two cases, the person refused to identify themselves or give an address so only verbal warnings could be given initially. An example of note was a kitchen supplier, the person answering the call would not identify themselves who or where they were. Subsequent enquires indicated a possible location in Dudley where a warning letter was sent.
- 6.6 The second exercise took place in September 2020, on this occasion a significantly less number of placards were seen. Approximately 40 placards were removed and 23 persons/business identified. There were again a mixture of businesses ranging from driveways, estate agents, blinds, vehicle repairs. However, the businesses identified were nearly all different to those from the first exercise.
- 6.7 One particular business of note came to our attention through a complaint. Not only was the business placarding illegally offering to remove waste, but the placard displayed the "Birmingham City Council" and BCC logo. The business owner has been interviewed under caution and a report submitted to Legal Services.
- 6.8 Another exercise took place in November 2020; a further 16 placard businesses were identified, once again they were different businesses on the whole and the same approach was adapted.

- 6.9 One further exercise took place in February 2021. In contrast to the September and November 2020 exercises where there had been significantly reduced numbers, the February exercise resulted in over 200 placards being identified and removed.
- 6.10 Of particular note was one business offering boiler installation services, displaying over 90 placards across the city. When officers initially contacted the business, they were not fully cooperative in identifying themselves. This remained the case until a representative was invited to attend a house. A business has now been identified and warning letter has been sent.
- 6.11 Also, another blinds company, different to those we had encountered previously, also displayed 20-30 placards. The business has been advised.
- 6.12 One point of concern remains where the business attempt to persuade the caller to invite them to their house, and then they will quote for example for bespoke made to measure blinds. Trading Standards advice would strongly recommend not inviting anyone into your house if they have not properly identified themselves and their business details.
- 6.13 Most of the placards seen in later exercises have been for different business to that seen and contacted in earlier exercises. There have been just a few exceptions. In a few cases the business has hired third parties to place the placards and doesn't know locations of all the placards. One such example has been a property business previously advised which has now been given a final warning. Contact details of those employed to erect the signs have been sought. Another example has been a kitchen installation business where further placards have recently been seen, enquires are being pursued.

7. Further Work

- 7.1 It is clear that whilst significant progress has been made, new businesses still come along and place placards along the highway.
- 7.2 Trading Standards will continue with further exercise in 2021-2022 and envisage formal action for persistent offenders.

8. Implication for Resources

- 8.1 The work identified in this report has been carried out with existing Trading Standards resources; no further resource implications have been identified.

9. Implications for Policy Priorities

- 9.1 Action taken to remove illegal placards protect the interest of legitimate traders from unfair competition and enables them to prosper.

9.2 Illegal placards also are a blight on the local street scene, their removal contributes to desired outcome of safer and clean streets. Improving the street scene is also important in giving a positive image of the city as we expect more visitors to the city with the Commonwealth Games approaching next year.

10. **Public Sector Equality Duty**

10.1 No significant impact identified.

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