

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**21 JUNE 2017**  
**ALL WARD**

**ADDENDUM TO ENVIRONMENTAL HEALTH SERVICE PLAN 2017/2018  
TO INCLUDE FLYPOSTING ENFORCEMENT**

1 Summary

- 1.1 It has been identified that details of the proposed interventions by Officers from Environmental Health to tackle illegal flyposting were omitted from 2017/2018 Service Plan.
- 1.2 This report sets out a range of enforcement interventions that will be undertaken during the year.

2 Recommendation

- 2.1 That the report be noted and outstanding minute number 835(ii) be discharged.

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### 3 Background

- 3.1 Flyposting is the unauthorised display of advertising materials on buildings and street furniture without the consent of the owner and contrary to the law. Although flyposting promotes events and venues that contribute to Birmingham's economy it is illegal and directly undermines and disadvantages businesses that operate within the law. Ordinarily illegal advertisements are left in-situ long after the promoted event has finished and the consequence is invariably litter caused from placards gradually falling apart and unkempt fly-posted void sites that promote litter and an air of dereliction.
- 3.2 The removal of illegal advertising from street furniture is the responsibility of AMEY under the Highways PFI agreement. Under the scheme of delegations officers from the Environmental Health lead on enforcement interventions against offenders over flyposting offences.
- 3.3 The primary legislation that deals with illegal flyposting is the Town and Country Planning Act 1990 and associated Regulations; The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Under the Town and Country Planning Act 1990 it is an offence to display advertisements in contravention to the Regulations. In practice the majority of commercial advertisements on street furniture are illegal with the exception of a few exemptions permitted in law. Such exemptions include advertisements for travelling fairs and circuses, local events not being carried out for commercial purposes, estate agents boards and new housing developments signage provided that certain conditions are met with regards to the siting and sizing of the advertisements. In most instances permission is required from the land owner is also required prior to displaying signage. In the case of the City Council, the Highways Department is responsible for approving the display of advertising on street furniture.
- 3.4 Enforcement against fly-posting and placarding can be resource intensive due to factors such as the legal need for repeat visits to illegal advertisements for evidential reasons and due to the fact that there are a range of legal defences available to offenders that the city council as prosecutor has to overcome before taking action. Changes to the Regulation of Investigatory Powers Act 2000 in November 2012 have also impacted on the City Council's ability to investigate incidents of illegal flyposting in that it is no longer possible to access communications data to obtain details of the person/company subscribing to a particular telephone line or undertake manned or video surveillance to assist in apprehension of offenders.

### 4 Proposed Interventions

- 4.1 It is proposed that this year's enforcement activities will be focused towards prolific illegal fly-posting operations and that this may include the full range of civil injunction/debt recovery and/or criminal proceedings and reviews of licences. The proposed approach will utilise appropriate advisory, awareness raising and warning stages prior to action in accordance with this

Department's Enforcement Policy. The overall aim of this proposed approach is to ensure that levels of defacement from illegal advertising and measures in the LEQ surveys are brought in to check and that companies that advertise legally are not put at a competitive disadvantage by illegal activities.

- 4.2 Details of the proposed interventions are set out in the attached appendix.

## 5. Consultation

- 5.1 The report is for information and no consultation has been undertaken.

## 6. Implications for Resources

- 6.1 The interventions identified and described within this report are proposed to be delivered the Committees approved budget.

## 7. Implications for Policy Priorities

- 7.1 The activities identified in the report support the Council's work in tackling environmental crime and promote the City Council's priority to help create a clean city and to secure fair trading environment for businesses.
- 7.2 The interventions described within this report are consistent with your Committee's approach to supporting intelligence led enforcement and to proactively deploying regulation early so as to reduce the financial burden on residents and lawful operators caused by offending behaviour.

## 8. Public Sector Equality Duty

- 8.1 The regulatory sanctions and approaches proposed are within the framework of the Enforcement Policy which ensures consistency and fairness of enforcement throughout all communities and the commercial sector in Birmingham.

## **ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

## APPENDIX

### Interventions to be undertaken by Environmental Health during 2017/2018 to tackle illegal flyposting

<b>Service Objective 2</b>  <b>Improve the environment through proactive and reactive enforcement measures in respect of fly-posting.</b>		<b>Mission Statement</b> – ‘Locally accountable and responsive, fair regulation for all – achieving a safe, healthy, clean, green and fair trading city for residents, businesses and visitors.’
<b>Council Plan Strategic Outcomes</b>  <ul style="list-style-type: none"> <li>• A Fair City – Safe and inclusive</li> <li>• A Prosperous City – Supporting business in a green and sustainable city</li> <li>• A Democratic City – Accountable public services focussing on the ‘whole place’</li> </ul>	<b>Sustainable Community Strategy Birmingham 2026 Priorities</b>  <ul style="list-style-type: none"> <li>• Enjoy a high quality of life</li> <li>• Promote social cohesion</li> <li>• Succeed economically</li> <li>• Stay safe in a clean, green city</li> <li>• Be healthy</li> <li>• Make a contribution</li> </ul>	<b>Lead Officer</b>  Head of Environmental Health
<b>Task</b>	<b>Method</b>	<b>Outcomes</b>
Improve mechanism of reporting incidents of illegal flyposting via the contact centre.	Update existing contact centre scripting to reflect current processes and practices for dealing with complaints of illegal flyposting.	Easier for citizens to make referrals with regards to incidents of illegal flyposting.  Ensuring referrals are directed to the correct Department and therefore dealt with promptly.  Increased customer satisfaction levels.

Reduce incidents of illegal advertising by licensed premises.	Undertaken premises licence reviews (as necessary) where it is identified that events at a licensed premises are being advertised by way of illegal advertising.	Reduction in illegal advertising by licensed premises in the City.  Improve messaging to licensed premises that illegal advertising for events at their premises will not be tolerated.
Undertake an audit of existing arrangements to remove illegal flyposting.	Work with colleagues in Highways, undertake a review of the AMEY PFI contract to ensure company are complying with their contractual obligations with regards to the removal of illegal flyposting (unauthorized attachments).	Ensure requests for flyposting removal are actioned promptly and in accordance with the contract.
Undertake civil debt recovery against the 5 most prolific flyposting offenders in the City (non-licensed premises).	Through the Small Claims Court seek to recover costs incurred in removing illegal advertising from the 5 most prolific offenders in the City.	Where possible recover some of the City Council expenditure on removing illegal advertising from around the City,  Send out a message to businesses that illegal advertising will not be tolerated.  Bring about a reduction of illegal advertising in the City.

Undertake 6 flyposting removal exercises.	Utilising Officers from Pest Control, undertake 6 flyposting removal exercises. Follow up action to be undertaken against the companies identified during the removal exercise in line with the Department's Enforcement Policy.	Reduction in the amount of illegal advertising around the City.  Instigation of a range of enforcement interventions ranging from written warnings to criminal prosecution in accordance with the Enforcement Policy.
Undertake 6 flyposting "schedule" exercises	Undertake 6 flyposting "schedule" exercises. The "scheduling" process involves writing to beneficiaries from illegal advertisements giving them an opportunity to remove their illegal advertisements (usually between 48 hrs and 7 days depending on the location of the company). Where a company fails to remove their advertisements then this can be followed up with legal proceedings.	Reduction in the amount of illegal advertising around the City.  Send out a message to businesses that illegal advertising will not be tolerated.