



Policy on Fly-Posting within the Borough

Summary;

- Fly-posting - i.e the act of placing or posting any sign, placard, notice, leaflet, banner or any other similar material advertising or displaying information in a manner that it can be seen from the public highway or any other public place without the owner's permission is illegal.
- Brent Council has adopted a zero tolerance approach to fly-posting – except in certain limited circumstances related to particular situations or organisations
- Organisations seeking to display adverts, placards, notices, leaflets or banners must contact Brent Council first to establish whether planning consent is required and seek the owners permission to display.
- Brent Council does not allow any posters, banners or adverts to be placed or posted on its street infrastructure.
- Any person or organisation found to be responsible for fly-posting in Brent will be subject to enforcement action which could result in the issue of fixed penalties or prosecution.

1 Introduction

This policy has been produced to support Brent Council's commitment to keep the Borough clean and safe for all. The purpose of the policy is to ensure that Brent Council applies a standardised approach to responding to fly-posting within the Borough. In particular it is intended to ensure that any enforcement decisions are consistent, balanced, fair, transparent and proportional. It recognises that each case is unique and must be considered on its own merits but sets out the general principles that will be applied by Brent Council's officers.

2 What is Fly-Posting?

The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 state that fly-posting takes place when advertisements are displayed without the consent of the owner or occupier of the land or premises. The Regulations state 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 on the owner of the land and the person benefiting from the display.

Section 336(1) of the Town and Country Planning Act 1990 Act, as amended by section 24 of the Planning and Compensation Act 1991, defines an “advertisement” as:

“any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used, or designed or adapted for use, and anything else principally used, or designed or adapted principally for use, for the display of advertisements”

3 Legislation

The main legislative powers in relation to unauthorised fly-posting are as follows:

3.1 Town and Country Planning Act (TCPA) 1990

Under Section 224 of the TCPA it is an offence for any person to display an advertisement in contravention of regulations. The relevant legislation is contained within the Town and Country Planning (Control of Advertisements) Regulations 2007. Any person contravening the legislation is liable on summary conviction to a fine not exceeding £2500 and in the case of a continuing offence £250 for each day on which the offence continues after conviction.

Under Section 225, the local planning authority may remove or obliterate any placard or poster which is displayed in their area and which in their opinion is so displayed in contravention of regulations made under section 220. However, if the placard or poster identifies ‘the person who displayed it or caused it to be displayed’, the local planning authority has to give that person at least two days’ notice that they plan to remove or obliterate the poster. In the first instance, the costs of removal are recoverable from the person identified in the poster or placard as having displayed it, or having caused it to be displayed. In the event that this person cannot be identified, section 225 permits the local authority to recover costs from an identifiable beneficiary of the illegal advertising (the person whose goods, services or concerns are publicised in the poster or placard).

3.2 Highways Act 1980

Under Section 132 of the Highways Act 1980 it is an offence for any person to paint, or in any way inscribe or affix any picture, letter, or sign on the surface of a highway, any tree, or structure without the consent of the Highway Authority. If found guilty of an offence the person can be liable to a fine of up to £1000

3.4 Anti-Social Behaviour Act 2003

Under Section 43 of the Anti-Social Behaviour Act, an authorised officer of a local authority may give a fixed penalty notice to any person who is guilty of defacement of land and property by fly-posting. A Fixed Penalty Notice can be issued instead of seeking prosecution in accordance with the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2006.

3.5 Clean Neighbourhoods and Environment Act 2005

The Clean Neighbourhoods and Environment Act 2005 introduced powers for local authorities to use fly-posting removal notices. If the fly-posting is not removed under the terms of the Notice, Brent Council can remove it and recover the costs of doing so. An authorised officer of a local authority must be satisfied that the defacement is detrimental to the amenity of the area, or is offensive in nature before issuing a Notice.

4 Brent Council's position

Fly-posting is illegal and Brent Council has a zero tolerance approach which means that enforcement action will be pursued where necessary and appropriate.

Brent Council believes that :

- fly-posting can be unsightly and make the environment less attractive for residents and visitors alike. It can make an area feel unsafe and uncared for and impact negatively on people's perceptions of the area. It can also distract drivers or obscure road signs and be hazardous to members of the public. It is costly to remove.
- there are many legitimate ways for businesses and other organisations to promote their services, activities, etc without the need to resort to fly-posting. Brent Council also believes that fly-posting can be detrimental to trade and can discourage business investment. It can create a less attractive environment for shoppers and disadvantage those businesses that choose to advertise their business in an appropriate and lawful manner.

4.1 Charities and Community Groups

Brent Council recognises the difficulties that its policy towards fly-posting will present to charity and community groups. In such circumstances all such groups, before seeking to display any advert or placard, should contact Brent Council to check whether planning consent/permission is required and comply with the relevant restrictions on size, placement, illumination, timescales, as described in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (**see 5.0**)

Advertisements for events should not exceed 0.6 of a square metre, should not be displayed more than 28 days before the event begins and must be removed within 14 days after it ends.

If advertisements for community, charity or festival events (or those relating to an election or referendum - see below) are placed in inappropriate locations, or are of an inappropriate nature, then Brent Council will normally contact the organisers, where known, and ask for the posters, banners, etc to be removed. If the organisers cannot be identified, or immediate removal of the signage is required (eg for health and safety reasons or because they are deemed offensive (or potentially offensive)), then the signage will be removed and disposed of.

If community or charity event organisers repeatedly place advertisements in inappropriate locations, or repeatedly ignore requests to remove inappropriate advertisements, then Brent Council may choose to take enforcement action to resolve the problem.

4.2 Circuses and Fairs

With the agreement of the landowner a travelling circus or fair will be allowed to advertise on the site of the circus or fair for a limited period. However notices or signs placed on any, land not classed as having *deemed consent under the provisions of the Advertisement Regulations enforcement action will be taken . Temporary notices or signs announcing the visit of a travelling circus or fairs should not **exceed 0.6** of a square metre, must not be displayed more than 14 days before the opening of the circus or fair and must be removed within seven days afterwards. Brent Council as the Highway and Planning authority must be told 14 days beforehand of the sites of the notice

Where there are two or more events simultaneously seeking to place sign/banner/posters, only events within the London Borough of Brent shall be permitted to place such signage.

Each event should only print a certain number of sign/banner/poster and will only have a percentage of them out at any one time as from time to time they get vandalised.

Note:

It should not be presumed Brent Council will automatically permit or disregard the illegal advertising of community events, charity events, travelling fairs or travelling circuses, and it reserves the right at all times to exercise its powers to prevent fly-posting where it deems it appropriate to do so.

In all cases, advertisements should not be displayed without the permission of the owner of the site.

4.3 Political Parties

Brent Council recognises that most candidates and parties would want to display campaign material relating to a pending Parliamentary, European Parliamentary, or local government election (or a referendum). Any parties and candidates wishing to do so should take account of the most current guidance from the Electoral Commission. Guidance from the Commission states that no advertisements should be displayed without the permission of the owner of the site or anyone else with an interest in the site (ie no fly-posting), should not interfere with or impede traffic or other road users, and should be removed within 14 calendar days after the election.

It is important that Brent Council remains impartial during elections and referenda. For this reason, the Council will not give candidates and parties permission to display their campaign material on land or buildings owned by Brent Council. If material is placed in such locations, Brent Council will normally contact the relevant candidate or party to ask them to remove the material or, if they cannot be contacted, a Council officer or their representatives will remove the material and dispose of it.

4.4 Council Owned Land

Brent Council recognises that as a landowner it has the ability and duty to take steps to prevent the illegal advertising of events held at Council venues and on council owned land. In order to prevent advertising Brent Council will:

- * in order that fly-posting is not used to promote council events or events associated with Brent Council (this does not include public notices, planning notices and other 'functional advertisements' by public bodies or advertising on formally managed and approved notice boards and hoardings).

- * make sure that anyone hiring council venues does not fly-post. This will be achieved through education and the use of clauses in hiring contracts.

4.5 Public Bodies etc

Advertisements which are needed by public bodies (such as government departments and local authorities, the public utilities and public transport operators) to give information or directions about the services they provide are considered to have deemed consent provided that the display conforms entirely to all the relevant provisions of Class 1 under the Town and Country Planning (Control of Advertisements) Regulations 2007.

5.0 Conditions on installing posters/notices and banners.

- * have the permission of the owner of the site before placing any signage on it (this includes the Highway Authority if the sign is to be placed on highway land, including street furniture such as roadside railings, lampposts, etc);

- * consider alternative ways of advertising that does not involve fly-posting;

- * do not place any sign/banner/poster at road junctions, on roundabouts, pelican crossings or traffic lights, where they may cause a hazard by distracting the road user. While this is open to interpretation, a key requirement under this condition is that any sign/banner/poster on kerbside railings should face away from the road and should not be : closer than three metres to any gap in roadside railings on either side, not be clustered together and therefore single sign/banner/poster only are permitted.

- * do not obstruct or hinder the interpretation of, official road, rail, waterway or aircraft signs, or otherwise make hazardous the use of these types of transport;

- * avoid putting signs up in sensitive locations or where they could possibly cause offence;

- * do not put up signs with wording or imagery that could be reasonably considered to be offensive to members of the general public;
- * do not put up an excessive number of signs; Should an authorised officer of Brent Council deem the number of signs placed out in a particular location or area excessive then officer will contact the vendor to arrange its removal.
- * make sure that the signage is not a hazard to pedestrians, cyclists, etc (eg it should be firmly attached and should not be at a height where a pedestrian could walk into it); see item **4.2** on size of sign/banner/poster.
- * keep signs clean, tidy and in a safe condition. Removed carefully when required to do so **including all fixings** – in particular cable ties must be removed as well when posters are taken down

6.0 Brent Council's Approach to Enforcement

Where fly-posting occurs on street furniture, will normally be removed by Brent Council's authorised officers or their representatives and disposed of.

A fixed penalty (or penalties if there is more than one offence) can be issued and the Council may also consider recovering the costs of removal of signage(s).

Also, Brent Council may take discontinuance action if it is satisfied that such action is necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public.

If signage is erected illegally in other places, and the poster identifies the person who displayed it or caused it to be displayed, Brent Council will normally write to the named person and give them a period of time of its intention to remove or obliterate the sign. If no such person can be identified, then Brent Council will proceed with the removal/obliteration of the sign. As above, a fixed penalty can be issued and Brent Council may also consider recovering the costs of removal of the notice(s).

In most cases, the authorised officer will photograph the fly-posting in situ prior to removal and record details about the sign (eg location, time of removal, how and where it was attached, etc).

Where someone is caught in the act of erecting signage then the authorised officer will issue a fixed penalty notice in person. If further checks are required before issuing a fixed penalty notice then the officer will record the details and issue a fixed penalty notice at a later date by recorded post.

There are a number of situations when Brent Council would consider that the issuing of a fixed penalty notice may not be appropriate and Brent Council would seek to prosecute under the Town and Country Planning Act or other relevant legislation. This includes:

- * Large scale commercial fly posting, which is commercially motivated and expensive to remove and repair;
- * When the offence is too large/serious in its effect on the community;
- * When the offence is committed by someone that has previously received a fixed penalty notice for the same offence; and
- * Where the fly-posting is motivated by hostility towards a racial or religious group (or towards a person based upon their membership (or presumed) membership of such a group).

6.1 *Private Land*

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, Brent Council may be liable to claims for any damage to property during the course of removing posters or for trespass

To overcome this problem officers from Brent Council can involve the property owner/s in the removal process, either by requesting they remove the posters themselves or pay for removal undertaken by the Council. There are difficulties with this approach, particularly identifying who the property owner is for vacant or derelict buildings.

Brent Council reserves the right to remove and destroy signage installed without giving notice, should an officer deem it a breach of conditions itemised in **5.0**

Brent Council will also not normally take action when the offence that has been committed is so small or trivial in its effect that action might not be in the public interest (eg notifications of missing cats, birthday greetings, etc). For more information please contact Email : waste.enforcement@brent.gov.uk or visit www.brent.gov.uk

For further guidance on advertising :

<https://www.gov.uk/guidance/advertisements#enforcement-against-specific-unauthorised-advertisements>