

# Policy Statement

## Flyposting Policy

Date of Issue:

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# Policy Statement

**This policy explains how Rossendale Borough Council deals with Fly Posting in Rossendale, both following the receipt of a complaint about Fly Posting, and taking pro-active action against it.**

## **Definition of Fly Posting**

Fly Posting is the display of advertisements on any building or structure without the consent of the owner and contrary to the provisions of the Town & Country Planning Act 1990.

Defra defines it as the commercially-driven defacement of the local environment with advertisements pasted or attached illegally to buildings, other structures, or street furniture.

## **Why Fly Posting is a Priority**

Fly Posting is unsightly and has an impact on both residents' perception of community safety and the quality of the local environment. It is therefore one of the priorities of Communities Team.

In addition Fly Posting saves companies substantial amounts of money and is unfair on those who do advertise legally. It also is a cost to the Local Authority and ultimately, the taxpayer.

## **Reporting & Recording Instances of Fly Posting**

The Communities Team will ensure that this policy is widely accessible in order to encourage all members of the community to report any instances of Fly Posting.

Fly Posting should be reported to the Communities Team on the following telephone numbers:-

For Fly Posting in the Bacup & Stacksteads area contact:-

**Simon Whiteside – 0781 541 8979**

For Fly Posting in the Haslingden, Helmshore & Edenfield area contact:-

**Nick Reddrop – 0781 541 9043**

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For Fly Posting in Rawtenstall, Crawshawbooth & Waterfoot and the surrounding area contact:-

**Aled Thomas – 0781 541 8908**

For Fly Posting in the Shawforth & Whitworth areas contact:-

**Simon Whiteside – 0781 541 8979**

Officers of the council will also report instances of Fly Posting to the Communities team.

On receipt of a complaint the details of the nature of the Fly Posting and its' location will be entered onto the Flare electronic system.

Any Fly Posting Hotspots and repeat offenders will be monitored through the Flare system.

## **Responding to Complaints or Requests for Service**

Any Fly Posting which makes reference to religion, race, is of a political nature or is offensive, will be responded to and **removed** within 24 hours of a complaint or request for service being received, during the working week.

'Offensive' Fly Posting is subjective and Locality Officers in the Communities Team will have some discretion with determining this. In addition to the above it will include anything which is sexually offensive, homophobic, depicts a sexual or violent act, or is defamatory.

If the Fly Posting is on private land reasonable attempts will be made to contact the owner of the property before removing it.

Any other Fly Posting will be responded to by the relevant Locality Officer within **10 working days** of receiving the report. The Officer will attend at the site to assess the location, ownership of the land, type of fly posting and take photographs. Details of the association, event, business, artist, or other 'beneficiary' of the advertising will also be taken.

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## Enforcement Action which can be taken

### General

1. S1(1) of the Criminal Damage Act 1971 makes it a criminal offence to damage property by painting, writing, soiling, marking or otherwise defacing a property by whatever means.

### Private Land

2. Under s224 & s225 Town & Country Planning Act 1990 (as amended by the Clean Neighbourhoods Act 2005), a Notice can be served on the person who displayed or caused the poster to be displayed. Under s34 Clean Neighbourhoods Act 2005 the beneficiary can be treated as the person who has displayed the poster.

The Notice requires removal of the posters/advertisements within 48 hours of the notice being served. If the Notice is not complied with, Rossendale BC's cleansing team will remove or obliterate the posters. The cost of doing so will be recovered from the beneficiaries at the rate of £50.00 per poster. This rate will be reviewed periodically.

The beneficiary and/or owner of the land will have a defence if they can prove that the advertisement was displayed without his knowledge or that they took all reasonable steps to prevent the display or subsequently, to secure its removal.

The owner of the property can claim compensation for damage caused as a result of the removal process and/or the removal of a poster which is subsequently found to have been displayed legitimately.

The council's Licensing & Enforcement Unit will take action under this legislation.

3. If private land is used solely or primarily for advertising purposes, for example an advertising hoarding on a piece of land by a highway, and the advertising has been installed for a period of less than 10 years, this may require planning permission unless it has deemed consent. Complaints about such advertisements will be dealt with by the council's Licensing & Enforcement Unit.
4. Defacement Removal Notices (Clean Neighbourhoods & Environment Act 2005) are intended for use on those areas where surfaces are defaced by both graffiti and

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fly-posting, in particular, the remains of old flyers. They can also be used where defacement is caused solely by Fly Posting, e.g. by a build up of flyers and stickers over time; or solely for graffiti.

Such Notices can only be served in relation to street surfaces or buildings and structures that are in or on the public street, or on land or buildings, structures etc.. owned by a statutory undertaker or educational institution which is accessible or visible to the public. A privately owned building facing the street will not be covered by the legislation. They are also not to be used for new cases of flyposting.

To qualify for removal under such notices, the defacement must be offensive, or detrimental to the amenity. Defacement will be 'offensive' if it is racially offensive, hostile to a religious group, sexually offensive, homophobic, depicts a sexual or violent act, or is defamatory. Whether something is detrimental to the amenity will depend on the surface area covered by the fly-posting, complaints received and the nature of the fly-posting problem in the area.

The Communities Team will take action under this legislation.

If any Fly Posting is on street furniture which is the responsibility of Lancashire County Council, the matter will be dealt with as outlined below.

In accordance with DEFRA Guidance, the Communities team will look to establish a partnership with those land owners affected by fly-posting, in recognition of the fact that they are victims of crime, to effect the removal. This will include establishing a point of contact for those companies repeatedly affected, to ensure expeditious removal of the Fly Posting. Defacement Removal Notices will be issued as a last resort in these circumstances.

## Highways & Street Furniture

5. Under s131(2) and 132(1) Highway Act 1980 it is an offence to paint or affix upon a surface of the highway or upon any tree or structure on the Highway any picture, letter, sign or other mark without consent, and the Local Authority is entitled to remove it. If found guilty of an offence under this section, a person will be liable to a fine of up to £1000.

Where any poster or other advertisement is affixed to street furniture and is capable of being removed easily, the council's Town Centre Caretakers or other members of the street cleansing team will remove.

Before removal of any advertisement on street furniture, the Communities Team will check with Lancashire County Council as to whether it has consent.

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A-boards, banners and other large advertisements on the highway or street furniture will be referred to the highways team at Lancashire County Council. Action will be taken by the highways team if the advertisement presents a risk to public safety, for example if a banner affects sight lines at a junction or an A-board obstructs wheelchair access.

If an advertisement presents a danger to the public, it will be removed immediately, for example a banner affecting a sight line at a pedestrian crossing point.

Lancashire County Council will store any removed items for 2-4 weeks then dispose of it. There will be no charge for storage of the removed item(s).

## Rossendale Borough Council land

6. Anyone wishing to place, install or display an advertisement on Rossendale Borough Council land must obtain a licence to do so from the council's property services team.

## Maintained Land

If an advertisement or sign is placed, erected or otherwise displayed on Rossendale Borough Council's maintained land and it causes an obstruction to council staff, preventing them from carrying out maintenance or cleansing work, this is to be reported to their team leader or a locality officer immediately. The team leader or locality officer will check whether permission has been given for the advertisement or sign. Where no permission has been given, the advertisement / sign will be removed by council staff and the company notified as soon as reasonably practicable.

If the advertisement / sign is not causing an obstruction but has no permission to be displayed on council land, this will be reported by council staff at the end of their shift to their team leader or a locality officer, who will contact the company responsible, requesting removal within 7 days. If it is not removed, the Communities Team will arrange removal and store the advertisement (where possible) for 4 weeks then dispose of the item.

## Unmaintained Land

Where an advertisement or sign is placed, erected or otherwise displayed on Rossendale Borough Council's unmaintained land, this is to be reported to property services who will decide what further action to take.

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## Vehicles used to advertise

7. Where a vehicle is being used to advertise a business, and the primary purpose of the vehicle is advertising a business i.e. it is stationary and not used for business travel, the Licensing & Enforcement Unit will take action. Before being able to take action they will require evidence that the vehicle does not move.

## Fixed Penalty Notices

8. Under s43 Anti Social Behaviour Act 2003 any individual who has committed a flyposting offence can be offered the chance of discharging their liability for that offence by payment of a fixed penalty at the level of £75.00. Locality Officers are authorised to issue Fixed Penalty Notices. If the penalty notice goes unpaid the relevant enforcing team will consider taking prosecution proceedings against that individual.

## Legalised Sites

Council notice boards are provided in town centres across the borough to advertise local community events and activities. Any notices or advertisements deemed to be political, offensive, or make reference to religion will be removed. This does not include notices relating to Councillor or MP surgeries, or community events held at religious venues.

## Preventative Action

Where repeat Fly-Posting occurs on council-owned land, preventative measures will be considered.

All companies and individuals who present an application to Rossendale BC's Events Committee before holding an event in the borough will be given a pack which will include advice and information about Fly Posting.

## Health & Safety

A site risk assessment will be carried out at each individual site before undertaking removal of the posters, taking into account the possible effect on the general public.

Appropriate precautions will be taken to protect members of the public from the site being cleaned where necessary. If the site is particularly busy, regard will be taken as to the time of day the posters are removed.

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