

COMMITTEE: REGULATION

DATE: 11TH SEPTEMBER 2003

SUBJECT: PUBLIC ENTERTAINMENT LICENCE CONDITIONS - FLY-POSTING

REPORT BY: DIRECTOR OF ENVIRONMENT & REGENERATION

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IMPLICATIONS:

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|------------|---|------------------|
| LEGAL | ✓ | COMMUNITY SAFETY |
| EQUALITIES | | ENVIRONMENT ✓ |
| FINANCIAL | | CONSULTATIONS |
| STAFFING | | OTHER |

WARDS AFFECTED:

PURPOSE

1. To advise Regulation Committee of the issues surrounding Fly-Posting in connection with Public Entertainment Venues/Events and propose a new draft condition for consultation for implementation from 1st November 2003.

RECOMMENDATION(S)

2. Regulation Committee is recommended to agree to the aim of introducing the attached conditions from 1st November and to instruct the Director of Environment and Regeneration to –
 - a) Consult, as a matter of good practice, all current holders of Public Entertainment Licences seeking their views (within 21 days) on the introduction of the Conditions relating to Fly Posting in connection with Public Entertainment Venues/Events as set out in the Appendix to this report.
 - b) Report any objections received as a result of consultation to the next scheduled meeting of Regulation Committee on 20th October 2003 to allow Members to fully consider the detail of responses and the merits of any objections.

- c) **Subject to the above, apply the Conditions relating to Fly Posting in connection with Public Entertainment Venues/Events as set out in the Appendix to this report to all existing and new Public Entertainment Licences with effect from 1st November 2003.**

BACKGROUND

3. Members will no doubt be aware of the proliferation of fly-posted advertisements that occur from time to time in connection with licensed Public Entertainment Venues/Events within the Borough. These advertisements have appeared on vacant premises, statutory undertakers' apparatus (such as BT/cable telephone cabinets, public call boxes and the like) and a variety of highway furniture and have a considerable negative impact on the Borough's street scene.

REPORT

4. The principal legislation relating to fly-posting is the Town and Country Planning Act 1990 and Highways Act 1980, both of which contain provisions, which are used by the Council, to prosecute those responsible for unauthorised advertising and thus control the issue. No doubt all reasonable Licensees would wish to work with the Council in controlling the problem and it is not unreasonable that they should ensure that advertisements promoting premises and events do not contravene the relevant legislation
5. Notwithstanding this fact, the holders of Public Entertainment Licences should behave responsibly in all aspects of their undertaking including advertising. This cannot always be relied upon however, and to this end, a Condition relating to fly-posting which could be attached to licences issued in respect of Public Entertainment Venues/Events has been prepared for consultation and is attached at the Appendix to this report. Such a condition would apply to any venue/event requiring a Public Entertainment Licence and would compliment the Conditions attached to bookings for the hiring of Council premises which permit the Council to cancel any booking where illegal advertising is used to promote the hiring whether or not a Public Entertainment Licence is required.
6. Similar conditions relating to Fly-posting in conjunction with Public Entertainment Venues/Events have been applied by other local authorities, notably Nottingham and The Wirral with, it is understood, good effect.

PROPOSAL/OPTION

7. It is proposed that the Draft Condition relating to fly-posting, given in the Appendix to this report, be circulated to the existing holders of Public Entertainment Licences for consultation and the result of this consultation be reported at a future meeting.

LEGAL IMPLICATIONS

8. The Council as the Licensing Authority can impose conditions on public entertainment licences. The conditions must be both reasonable and directly

connected with the public entertainment. The Council may therefore impose conditions which restrict unlawful fly-posting of public entertainment events, public entertainment venues and/or both. If a licensee breaches any condition of the public entertainment licence, he may be prosecuted under Section 12 of the Local Government (Miscellaneous Provisions) Act 1982. This provides for a criminal offence if any place in respect of which a licence is in force is used for any entertainment otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held then (a) the holder of the licence and (b) any other person who knowingly or having reasonable cause to suspect that the place would be so used (i) allowed the place to be so used or (ii) let the place or otherwise made it available to any person by whom an offence in connection with the use of that place has been committed, shall be guilty of an offence.

9. The Council can also prosecute under the Town and Country Planning Act 1990 and the regulations made thereunder for any unlawful fly-posting or advertisement.

ENVIRONMENT IMPLICATIONS

10. The inclusion of a Condition relating to fly-posting could be attached to licences issued in respect of Public Entertainment Venues/Events should, it would be hoped, lead to an improvement in the environment by lessening the impact of fly-posting on the street scene.

APPENDIX

Appendix: Proposed Draft Public Entertainment Licence Condition - Fly Posting And Unlawful Advertising

BACKGROUND PAPERS

Local Government (Miscellaneous Provisions) Act 1982
Luton Borough Council's Adopted Conditions attached to Public Entertainment Licences
Town and Country Planning Act 1990
Highways Act 1980

APPENDIX

PUBLIC ENTERTAINMENT LICENCE CONDITION - FLY POSTING AND UNLAWFUL ADVERTISING

1. Licensees shall ensure that their premises are not in any way promoted by the use of illegal fly posting or unauthorised advertisements attached to street furniture.
2. Licensees shall ensure that contracts with promoters for their premises or events to be held at their premises prohibit the use of fly posting and/or advertisements attached to street furniture.
3. The Licensee shall explicitly warn promoters that if they do fly post or display any other unauthorised advertisements they will be pursued for the costs of removal that fall on the Licensee and that no further work will be placed with them by the Licensee or any employee of the Licensee.
4. The Licensee shall ensure that contracts with promoters include an indemnity to the Licensee for any costs associated with the removal of illegal fly posting or other unauthorised advertisements incurred by the Council.
5. The Licensee shall co-operate fully with the Council and assist with identifying and taking action against any suspected promotion of their premises by illegal fly posting and unauthorised advertisements.
- 6.1 The Licensee shall ensure that whenever their premises and/or events at their premises are promoted by the use of 'flyers':
 - (a) The distributor shall take responsibility for picking up all discarded flyers within 100 metres of the point of distribution and does so every 15 minutes when distributing.
 - (b) Where leaflets are dropped in close proximity to the distributor they should be picked up immediately.
 - (c) Where a distributor fails to do so, no further work will be placed with them by either the Licensee or any other employee of the licensed premises.
- 6.2 Licensees shall co-operate fully with the Council and assist with identifying and taking action against any distributors who are suspected of causing unreasonable littering by flyers.
7. The Licensee shall not display or shall remove any advertisements where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed or continued to be displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling that advertisement should not be displayed.

Any breach of the Public Entertainment Licence conditions may lead to a prosecution under the provisions of the Local Government (Miscellaneous Provisions) Act 1982.