

Streetscene Fly Posting Policy



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

North Ayrshire council's Streetscene department, working in collaboration with North Ayrshire Council Roads department have adopted a zero-tolerance policy relating to illegal Fly Posting.

What is Fly Posting?

There is no statutory definition of flyposting. ENCAMS and Keep Scotland Beautiful describe flyposting as, "any printed material and associated remains informally or illegally fixed to any structure. It excludes approved and managed advertising hoardings and fly-posting sites, and other valid, legally placed signs and notices. It includes any size of material from small stickers up to large posters." Adverts displayed on movable objects such as advertising 'A' boards, billboards on movable bases on farmland and other open land, on 'barrage balloons', dirigibles or airships and business cards and handbills placed under vehicle windscreen wipers and vehicle door handles may, depending on the circumstances, be illegal but do not constitute flyposting. The by-products of flyposting includes remnants of partially removed stickers, posters and the remains of adhesive tape, cable ties and other fixings that had been used to stick posters to surfaces.

However, The Town and Country Planning (Control of Advertisements) Regulations 1984 Part IV, Paragraph 12 (1)(a) provides that election notices put up by political parties, any advertisements required to be displayed under a standing order or other legislation, or traffic signs required for the control, guidance or safety of traffic, are deemed to have planning consent and are not therefore considered to be flyposting. A standard condition [Paragraph 12 (2)(a)] requires that any election advertising must be removed within 14 days of the close of the poll in the election to which the advertisement relates.

(Scottish Executive, Development Department)



Management

To reduce the volume of related issues North Ayrshire Council has authorised the management of fly posting to the Environmental Enforcement Team (Streetscene), who, in keeping with the three E's Strategy will:

Educate

- Social media campaign.
- Publication in local press.
- Providing advance guidance to event planners.
- Speaking with alleged offenders.

Enable

- Provide those responsible with alternative solutions to advertising events and businesses.
- Give advice on how events may be promoted legally by contacting private landowners

Enforce

- Issuing written caution.
- Making referral to ASBIT.
- Serving Fixed Penalty notices.
- Making referral to the procurator fiscal.

Guidance by:



Flyposting, which constitutes illegal notices, advertisements and other printed material, can result in local authorities bearing considerable expense, both in controlling sites and addressing adverse amenity impacts. Better control and management will work to support vibrant and thriving city, town and village centres through the reduction of environmental crime and antisocial behaviour.

Better control will help

- Enhance the appeal and attractiveness of our towns and rural areas.
- Increased visibility / safety at road crossings.
- Minimization of distraction to drivers, increasing road safety.
- Reduction in associated litter as a result of poor-quality Signs.
- Assist with the delivery of SOA.

Flyposting is illegal and is controlled under a range of legislation. It constitutes an environmental crime, along with a wide range of issues such as graffiti, littering, fly-tipping and dog fouling. Fly-posting damages the physical environment, is detrimental to quality of place and communities, has high clean-up costs and is linked to antisocial behaviour. Flyposting can significantly reduce the attractiveness of urban areas, especially those in need of regeneration. ENCAMS states that, “flyposting attracts graffiti, sending out the signal an area is uncared for and can exacerbate people’s fear of crime. This in turn stops businesses choosing to locate there and can also keep visitors away.” It is extremely difficult to eradicate flyposting completely but if left unchecked, it can project an air of neglect and decline that reflects badly on the image and quality of a town or city centre. The combination of flyposting, fly-tipping, litter, graffiti and noise encourages other, low-level crime incidents, antisocial behaviour and contributes to the degrading of our streets and public realm. In turn, poor quality of place has an adverse impact on economic regeneration, tourism and inward investment. PAN 59 notes that, “centres that are uncared for can appear dangerous or dirty, which will be a deterrent to visitors and can be a disincentive to private investment.

Acts and regulations controlling the display of advertisements

The Town and Country Planning (Scotland) Act 1997 (s182) and the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, (as amended), (s5) state that no advertisement can be displayed without the consent of the planning authority (although advertisements that fall into certain classes have deemed consent). It is an offence to display an advertisement in contravention of the regulations.

The 1997 Act (s186) states that a person is deemed to be displaying an advertisement if they are the owner or occupier of the land on which the advertisement is displayed, or the advertisement gives publicity to his goods, trade, business or other concerns.

The Roads (Scotland) Act 1984 (s100) makes it an offence to place anything on a public road without the consent of the roads authority. This includes any way over which there is a public right of access and includes the road verge, foot path, bridges or tunnels over or under which the road passes. It is an offence, under this Act, to paint, inscribe or fix upon the surface of a road or tree, traffic sign, milestone, structure or works a picture, letter, sign or other mark. Schedule 8 of the Act sets the penalty, where an offence is proven, up to level 3 (£1,000) of the standard scale.

Enforcement of control over advertisements

The Town and Country Planning (Scotland) Act 1997 (s186) makes provision to enable the planning authority to require the removal of any advertisement that is displayed in contravention of the regulations and the discontinuance of the use of the site for the display of advertisements. Section 186(3) provides that where a person displays an advertisement in contravention of Advertising Regulations, they are guilty of an offence. Where an offence is proven, fines of up to £200 can be issued on summary conviction, and in the case of a continuing offence, £20 for each day during which the offence continues after conviction, according to section 7 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

The Environmental Protection (Scotland) Act 1990 (s87) It is an offence to drop, throw down or otherwise deposit any item on relevant land and leave it there in a manner likely to cause defacement by litter. Littering is enforceable by payment of a fixed penalty notice of £80.

Use of enforcement notices

The planning authority may also issue enforcement notices, **according to the Town and Country Planning (Scotland) Act 1997 (s127) and the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (s24) and Environmental Protection (Scotland) Act 1990 (s88)**, requiring the removal of any advertisement displayed in contravention of the Regulations.

Recovery of expenses

If the action required by an enforcement notice has not been undertaken within the period specified, local authorities may enter land and take action to remove or obliterate posters or placards. The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (s26) gives local authorities the power to recover any reasonable expenses incurred by them in taking action. A landowner who has incurred costs complying with an Enforcement Notice may also seek to recover these costs from the person who put up the advertisement.

Power to remove posters

The Town and Country Planning (Scotland) Act 1997 (s187) also allows the local authority to remove or obliterate any poster or placard displayed in contravention of the Advertisement Regulations. This can be done after the planning authority has given notice in writing that the advertisement is displayed in contravention of the regulations made under section 182 and that they intend to remove it on expiry of the notice; and providing at least two days' notice of the intention to remove the poster. Circular 10/1992 looks at the power to remove or obliterate placards and posters.