

Report of: Environmental Health Business Manager

To: Executive Board

Date: 6th November 2006

Item No:

Title of Report: The control of leafleting in the city centre

Summary and Recommendations

Purpose of report: To outline the power available to the City Council to regulate the distribution of free literature and to seek approval from the Executive Board to introduce an order to designate streets in the City Centre

Key decision: No

Portfolio Holder: Councillor Jean Fooks

Scrutiny Responsibility: Environment

Ward(s) affected: Carfax & Holywell

Report Approved by: Councillor Jean Fooks (Cleaner City Portfolio Holder) Jeremy Franklin (Legal Services), Ian Wright (Environmental Health), John Copley (Environmental Health), Andy Collett (Financial and Asset Management)

Policy Framework: This supports the City Council's vision of improving the environments where we live and work

The Executive Board is recommended to:

- Note the provisions of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods & Environment Act 2005) to enable councils to control the distribution of free literature
- Indicate its support for an order to control the distribution of free literature in the City Centre and agree which land or areas of highway should be included in a designation order
- Authorise the Environmental Health Business Manager to proceed with the consultation stage required to bring a designation order into force

Background

1. Central, South and West Area Committee (CSW), in response to complaints and consultation, identified city centre leafleting as a problem, both in terms of the eyesore of litter generated (and time and money to

litter pick) and the nuisance caused to people who are accosted by leafleters when going about their normal business.

2. In April 2004, the CSW Area Committee approved a protocol for the application of the “anti-touting” bylaw, which was introduced by the Council in Spring 2004. This protocol listed leafleting as one of the priorities to be addressed. Since then council officers and the OX1 have worked with city centre businesses to try and control leafleting but with limited success. The bylaw itself has its limitations and more direct legislation has been recently introduced by the Clean Neighbourhoods and Environment Act 2005, which amended the Environmental Protection Act 1990.
3. On 8th August 2006 CSW Area Committee agreed that the new powers contained in the Environmental Protection Act 1990 should be used to control leafleting in the City Centre and that their recommendation should go to Executive Board for approval. On the 13th September a further report went to the CSW Area committee regarding the issuing of consents once an order is in place.

The Environmental Protection Act 1990

4. Section 94B (Schedule 3A) of the Environmental Protection Act 1990 provides for the offence of distributing free printed matter without the consent of a principal litter authority where the distribution takes place on land duly designated by the authority. It is also an offence to cause another to distribute free printed matter on designated land without the consent of the authority. District councils are included in the definition of “principal litter authority”.
 5. The authority can only designate land where it is satisfied that the land in question is being defaced by the discarding of free printed matter, which has been distributed there. The land designated must consist of:
 - (a) relevant land of the authority;
 - (b) all or part of any relevant highway for which the authority is responsible*; or
 - (c) both
- * responsibility for litter on highways falls to district councils
6. Once the principal authority has satisfied itself that there is a problem and identified which land needs to be designated by the order, the Act then provides a procedure for the designation of the proposed land for this purpose and the process will have to be carried out in two stages.
 7. For the first stage, a notice of the proposal must be published in at least one newspaper and posted on the land in question. The notice must specify the land proposed to be designated, the date on which it is proposed that the order is to come into force (at least 28 days notice must be given); the fact that objections may be made to the proposal, how they

may be made and the period within which they may be made, which must be at least 14 days.

8. The results of the consultation will then have to be considered by the Executive board at a further meeting and decision made as to how to progress the order.
9. The authority must then publish a notice of its decision in at least one newspaper and post a notice on the affected land. The notices must be posted at least 14 days before the order comes into effect.
10. With the need for Executive Board to consider the results of the consultation, the timings of available meetings and the requirements for periods of notice to be given it is anticipated that an order could be in force by mid to late January 2007.

Powers available once an order is in force

11. Anyone distributing free literature in a designated area without consent commits an offence punishable by a fine up to level 4 (currently £2,500) on the standard scale or a fixed penalty notice. It is also an offence to commission or pay for the distributing of free printed matter within a designated area without consent.
12. Both Council Officers and the Police may enforce this power within designated streets.
13. The Act provides a specific exemption where the distribution of material is for political, charitable or religious purposes (so as not to inhibit the right to freedom of expression enshrined in the Human Rights Act 1998).
14. There is also a power for the authority to issue consents to allow leafleting in the designated area. Conditions can be attached to consents to restrict when and where leaflets can be distributed and the number of leaflets that can be issued. Fees can be charged for issuing consents. This matter was considered by the CSW Area Committee on 13th September 2006 and it recommended that the effectiveness of the designation should be monitored for 6 months following implementation. After this time the Environmental Health Business Manager will report back to the Area Committee on the success of reducing litter (and associated costs) and the level of enforcement activity required to maintain the prohibition, and whether a scheme for granting consent should be drawn up at that stage. Alternatively the Board may wish to consider the merits of introducing a scheme once the order is in force.

The Proposed Streets

15. On the 8th August 2006 CSW Committee recommended that all the streets in the area defined as OX1 should be covered by the order. A map is attached.

- George Street
- Worcester Street
- New Road
- Queen Street
- Castle Street
- Park End Street
- Hythe Bridge Street
- Upper Fisher Row
- Lower Fisher Row
- St Aldate's and roads off
- St Ebbes Street
- Gloucester Green & St Georges Place
- Oxpens
- Hollybush Row
- New Inn Hall Street
- Turl Street
- Cornmarket Street
- Ship Street
- Market Street
- St Michaels Street
- Magdalen St
- Friars Entry
- Broad Street
- Bonn Square
- Beaumont Street
- St Giles
- High Street and streets off

Financial implications

16. As part of an on-going programme of improving aspects of the environment, the Council approved new funding of £60,000 per annum for the 2006/07 year onwards which will help use to be made in particular of the enforcement powers under both the existing and the new legislation. Best use will be made of the additional funding via healthier corporate working across business units to ensure that a joined up approach results. The ongoing objective will be to work in a co-ordinated way to ensure a seamless service and the Strategic Director, Physical Environment, will oversee this activity.
17. Two environmental enforcement officers currently work alongside other enforcement officers in the Environmental Health Business Unit and are authorised to issue fixed penalty and other notices to offenders for a range of matters including Byelaws, littering, discarding of waste, dog fouling and fly-tipping. They will be able to enforce the scheme once it is in place.

The Executive Board is recommended to:

18. Note the provisions of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods & Environment Act 2005) to enable councils to control the distribution of free literature.
19. To indicate its support for an order to control the distribution of free literature in the City Centre and agree which land or areas of highway should be included in the designation order.
20. To authorise the Environmental Health Business Manager to proceed with the consultation stage required to bring a designation order into force.

Background papers – Section 94B
(Schedule 3A) of the Environmental
Protection Act 1990