

Report of: Environmental Health Business Manager

To: Executive Board

Date: 29th January 2007

Item No:

Title of Report: The control of leafleting in the City Centre

Summary and Recommendations

Purpose of report: This is the second report on the implementation of an order to designate streets and control leafleting in the City Centre. Its purpose is to inform members of the results of the consultation to regulate the distribution of free literature and to obtain a decision from the Executive Board for the next stage of the process.

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), 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 introduce the order to cover the streets and area listed in appendices 1 and 2, authorise the Environmental Health Business Manager to enforce its requirements and to ask the Environmental Health Business Manager to develop a consent scheme for approval by the Executive Board at the earliest opportunity.

Background

1. Leafleting has been recognised for some time as a problem in the City Centre 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 people handing out leaflets. A bylaw was introduced in 2004 to try and control leafleting but with limited success and more direct legislation has

been introduced by the Clean Neighbourhoods and Environment Act 2005 which amended the Environmental Protection Act 1990. There is 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).

2. The Central, South & West Area Committee (CSW) agreed that the new powers should be used to control leafleting in the City Centre and their recommendation went to Executive Board on 6th November 2006 where it was resolved to authorise the Environmental Health Business Manager to proceed with the consultation stage required to bring a designation order into force.

Consultation

3. As required by the Environmental Protection Act 1990, a public notice was published in the Oxford Times on 1st December 2006 and notices were displayed in every street covered by the proposed order between 1st December and 18th December. In addition a presentation was held on 8th December organised by the Environmental Enforcement Officers to explain the implications of the legislation. The event was publicised at a pub-watch meeting and invites were sent to thirteen venues in the city centre, including the largest licensed premises and those most closely linked to the issuing of flyers.
4. A total of five replies were received and only three premises managers and one promoter attended the presentation on the 8th December. This is considered to be a low level of response.
5. Three of the five replies received were from nightclubs that wanted to legally distribute flyers and two of these specifically referred to the introduction of a consent scheme to allow this to be regulated. One of the other replies was from a theatre that opposed a ban but could see the benefits of a regulated scheme. The final reply was from a bus company suggesting that their leaflet was a timetable that should be exempted from the scheme.

The Next Steps

6. The Council now has to decide a way forward based on the replies to the consultation. The Council could of course decide to stop the process and cancel the proposed order, but the low level of response to the consultation indicates that there is no widespread objection to its introduction.
7. For the order to come into effect the authority must publish a notice of its decision in at least one newspaper and post a notice in all the designated streets. The notices must be posted at least 14 days before the order comes into effect. A list of the streets proposed to be covered by the order and a map are attached as appendices 1 and 2.

8. Once the order is in force anyone wishing to distribute free literature, other than material for political, charitable or religious purposes, will have to apply to the Council for consent to do so.
9. The CSW Area Committee recommended that that the effectiveness of the order should be monitored for 6 months before developing a consent scheme.
10. However any applications to distribute free literature will have to be considered on their merits and the council cannot simply ignore requests or refuse them outright. If the Council refuses to grant consent, the applicant has the right of appeal to the Magistrate's Court. The Court has the power to require the authority to grant consent without limitation or condition, or subject to any limitation or condition it considers necessary.
11. The preferred option is therefore to approve the second stage of the process and to introduce the order controlling the distribution of free literature in the designated streets, but to also develop and introduce a consent scheme. This was requested by three out of five of the replies to the consultation.
12. Consent may be granted subject to such conditions, as the Council considers necessary or desirable for protecting the designated land from defacement. Consent may be limited by reference to:
 - (a) the material to be distributed;
 - (b) a particular period, or particular times or dates,
 - (c) any part of the designated land,
 - (d) to a particular distribution.
13. Fees can be charged for consents and there are powers to revoke them where breaches of conditions are noted or the distributor is issued with a fixed penalty notice or convicted of an offence.
14. If this option is chosen a consent scheme will need to be drawn up in consultation with relevant council services and fees and charges set and approved at a future meeting.

Financial implications

15. The Council approved a budget of £60,000 per annum for the 2006/07 year onwards which funds two environmental enforcement officers who work in the City Centre and they will be able to enforce the requirements of the order once it is in place.
16. If a consent scheme were to be introduced, the fees would be set at a level so that the income raised would cover the administration and any additional enforcement costs.

The Executive Board is recommended:

17. To introduce the order to cover the streets and area listed in appendices 1 and 2, authorise the Environmental Health Business Manager to enforce its requirements and to ask the Environmental Health Business Manager to develop a consent scheme for approval by the Executive Board at the earliest opportunity.

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