



DERBY CITY COUNCIL

MEETING: Council Cabinet
Date 23 November 2010

ITEM 16

Report of the Strategic Director of
Neighbourhoods

CONTROLLING THE DISTRIBUTION OF FREE PRINTED LITERATURE IN DERBY CITY CENTRE

SUMMARY

- 1.1 The distribution of free leaflets and other free printed literature can blight public spaces if they are subsequently dropped as litter. A Local Authority can designate by Order areas of their own land or highways where the distribution of free printed literature is prohibited without prior consent. The purpose of the legislation is to help control these distributions and associated litter problems.
- 1.2 It is proposed that the Council introduces an Order to control the distribution of free literature in the city centre. The scheme would be administered by the Environment and Regulatory Services Department and would commence on 1 February 2011.
- 1.3 In order to introduce a scheme to designate areas of the city where the distribution of free literature is controlled it is necessary to follow prescribed procedures to advertise any proposals, consider objections and notify that an order is to be introduced.
- 1.4 The Act authorises authorities to charge a fee for issuing consent. The amount is for the authority to determine but it must not be more than is reasonable to cover the costs of operating and enforcing the provisions in its area, but cannot include potential clean up costs. The Council may also place conditions on the consent if it considers that these are necessary for protecting the designated land from defacement or for the effective operation and enforcement of the scheme. For example if the Council is concerned that a particular distribution is likely to cause defacement of the designated area it may place a requirement on the distributor to clear up any such material which is discarded there.

RECOMMENDATION

- 2.1 To approve the making of an Order under Section 94B/Schedule 3A of the Environmental Protection Act 1990 to designate land where the distribution of free printed literature is only permitted with the consent of Derby City Council. The land to be designated is described in paragraph 4.6 and Appendix 2.
- 2.2 To agree that distributors wishing to distribute free printed literature on designated land are subject to conditions. To agree the standard consent conditions detailed in Appendix 7.
- 2.3 To charge distributors the fees set out in Appendix 8 for obtaining consent to distribute free printed literature.

REASONS FOR RECOMMENDATION

- 3.1 That at the present time areas of the City centre experience significant levels of litter associated with discarded free literature.
- 3.2 That the introduction of a permitting scheme will help control such distributions and reduce the level of litter generated from such distributions.

SUPPORTING INFORMATION

- 4.1 The Clean Neighbourhoods and Environment Act 2005 inserted Section 94B and Schedule 3A into the Environmental Protection Act 1990 which enables Local Authorities to designate by order areas of their own land or highways (relevant land) where the distribution of free printed matter is prohibited without the prior consent of the Authority. The purpose of the legislation is to help control these distributions and associated litter problems. Land can only be designated if the Authority is satisfied that the discarding of free literature is causing its defacement. If such a designation is made anyone distributing free literature in the area without consent commits an offence and it is also an offence to commission or pay for the distribution of free printed literature in designated areas without the necessary consent. Consent is not currently required from Derby City Council to distribute free printed literature.
- 4.2 “Free printed literature” includes amongst other things newspapers, leaflets, pamphlets and stickers.

“Distribute” means to give free printed matter out to, or to offer to make it available to, members of the public and includes placing it on or affixing it to vehicles but does not include putting it inside a building or letter-box.

Materials for political, charitable purposes or those in relation to a religion or belief are exempt from regulation. Materials posted through letter boxes, placed inside buildings or distributed inside a public service vehicle are also exempt.
- 4.3 Areas of the city, notably the city centre, are affected by litter in the form of discarded materials such as promotional leaflets, flyers, stickers and papers. This leads to defacement of the area. Currently no restrictions are in place to control these distributions which can lead to defacement of the area as a result of litter associated with these distributions.
- 4.4 Similar schemes to the one proposed in Derby are already in operation in other local authority areas.
- 4.5 Businesses in the city centre have been informed previously of the issues relating to defacement by discarded materials and of the Councils intention to introduce controls on the distribution of free literature. All businesses were notified in writing of the proposals in September 2010.

- 4.6 It is proposed that the area to be designated is restricted to the city centre as this is the location that suffers the highest degree of defacement. The proposed area is bounded by St Alkmunds Way to The Cock Pitt via Causey Bridge, Traffic Street, Bradshaw Way, Leopold Street to Macklin Street via Green Lane, Macklin Street to Ford Street via Abbey Street, Friary Street and Stafford Street, Ford Street to St Alkmunds Way. The proposed area is shown in the attached map at Appendix 2.
- 4.7 The Council must formally give Notice of the introduction of an Order to introduce controls on the distribution of free literature. It is proposed that the Order comes into force on 1 February 2011. Notice must be given at least 14 days before the Order comes into force.
- 4.8 When introducing an Order the Authority is required to follow procedures detailed in the relevant legislation for designation. These are summarised below:-
- a. Notice of Notification of proposal to make an Order
 - b. Consideration of any objections
 - c. Notice of Notification of the commencement of an Order
- 4.9 The Council is required to issue a notice setting out its proposal. This must be published in at least one newspaper circulating in the locality and posted directly on the land. It is also recommended that the notice is published on the Council's website. The notice must contain details of the land, the date the proposal will come into force (at least 28 days from the commencement date of the Order) and how and for how long objections to the proposal may be made. At least 14 days must be given for this. This process has taken place, with notice being published on 18 October 2010 with any objections having to be received by 1 November 2010. A copy of the notice that appeared on the Council's website and that was posted on land in the area is shown in Appendix 3. A notice in a shorter format was also published in the Derby Evening Telegraph on 18 October 2010. A press release was also issued on 15 October 2010 with an article appearing in the Derby Evening Telegraph on 18 October 2010.
- 4.10 The Authority is required to take account of all objections received. Proper consideration should be given to each objection. If an objection is rejected then this must be recorded and the objector notified.
- 4.11 If, after publishing its proposals and taking into account any objections, the Authority decides to go ahead with an Order it must then issue a notice announcing its decision. This notice is to be publicised in the same way as the proposal notice and the date the order comes into force must be at least 14 days from the date the notice is issued.
- 4.12 The Council may also place conditions on the consent if it considers that these are necessary for protecting the designated land from defacement or for the effective operation and enforcement of the scheme. It is intended to introduce conditions attached to the permit to distribute. Draft consent conditions, guidance and fees were published with the notice of 18 October 2010. These are shown in Appendix 4 and Appendix 5.

- 4.13 The Act also authorises authorities to charge a fee for issuing consent. The amount is for the authority to determine but it must not be more than is reasonable to cover the costs of operating and enforcing the provisions in its area. It cannot include potential clean up costs. It is intended to introduce fees for a permit to distribute. There is no standard set fee. The proposed fees are related to the frequency of distribution and size of venue and have been set having regard to fees charged for similar schemes in other areas. Each person wishing to distribute free printed literature would be issued with a permit upon payment of the appropriate fee. This would allow one person to distribute matter. If the permit holder wishes to have more than one person distributing printed matter then they would need to apply for additional permits for each additional person. Each permit would be valid for a 12 month period. An option of a 14 day permit would also be available to cover short term distributions. Draft fees were published with the notice of 18 October 2010 and these are shown in Appendix 5.
- 4.14 A number of objections and comments were received following publication of the proposals. A summary of the objections received together with comments from officers are shown in Appendix 6.
- 4.15 The objections and comments received following the notice of proposal to make an order on 18 October 2010 have been considered and some amendments were made to the original proposed guidance and conditions. The revised consent conditions and guidance/fees are shown in Appendix 7 and Appendix 8. The fee levels remain unaltered from the original proposed fees published on 18 October 2010. Members are asked to approve these versions of the guidance/fees and conditions.

It is an offence under Schedule 3A of the Environmental Protection Act 1990 for any person to distribute free printed matter on land designated by Order without consent. Offenders are liable on conviction to a fine not exceeding £2500. A fixed penalty of £75 can be issued as an alternative to prosecution.

It is also an offence if a person causes another person to distribute any free printed material without consent on designated land. Offenders are liable on summary conviction to a fine not exceeding £2500. A fixed penalty of £75 can be issued as an alternative to prosecution.

An authorised officer of the Council may also seize any free printed material from a person found distributing it in a designated place without consent. Permits to distribute free printed literature can be withdrawn if the distributor does not abide by the consent conditions.

- 4.16 The authority is permitted to revoke the Order at any time. Any revocation must be published in at least one newspaper circulating in the locality and posted directly on the land. It is also recommended that the notice is published on the Council's website.

OTHER OPTIONS CONSIDERED

- 5.1 Taking no action, but this would mean the continued proliferation of litter resulting from free printed material.

This report has been approved by the following officers:

Legal officer	Stuart Leslie
Financial officer	Not applicable
Human Resources officer	Not Applicable
Service Director(s)	John Tomlinson
Other(s)	Not applicable

For more information contact: Background papers: List of appendices:	Name Ian Donnelly 01332 641943 e-mail ian.donnelly@derby.gov.uk None Appendix 1 – Implications. Appendix 2 – Map of proposed designated area Appendix 3 – Copy of Notice of Proposal to introduce an Order to designate land for the control of the distribution of free printed literature published on 18/10/10 Appendix 4 – Standard Consent conditions published on 18 October 2010 Appendix 5 – Guidance for Applicants and Fees published on 18 October 2010 Appendix 6 – Summary of Objections received and comments Appendix 7 – Revised Standard Consent conditions Appendix 8 – Revised Guidance for Applicants and Fees
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IMPLICATIONS

Financial

- 1.1 The Council is permitted to charge a fee for giving consent to distribute free printed literature. Therefore some income will be received, but the amount is dependent on the number of applications received.

Legal

- 2.1 The ability for local authorities to designate land in order to control free literature distributions is contained in Section 94B/Schedule 3A of the Environmental Protection Act 1990.
- 2.2 Any person found committing an offence under the legislation will be dealt with in accordance with the Departments Enforcement Policy.

Personnel

- 3.1 The scheme will be administered by the Environment and Regulatory Services Department using resources within the Department.

Equalities Impact

- 4.1 None

Health and Safety

- 5.1 As with all the Departments activities, enforcement of the scheme will be subject to a risk assessment with controls being put in place where appropriate.

Carbon commitment

- 6.1 The reduction of litter within the city would reduce the need to use plant, cleaning materials and equipment for extended periods of time.

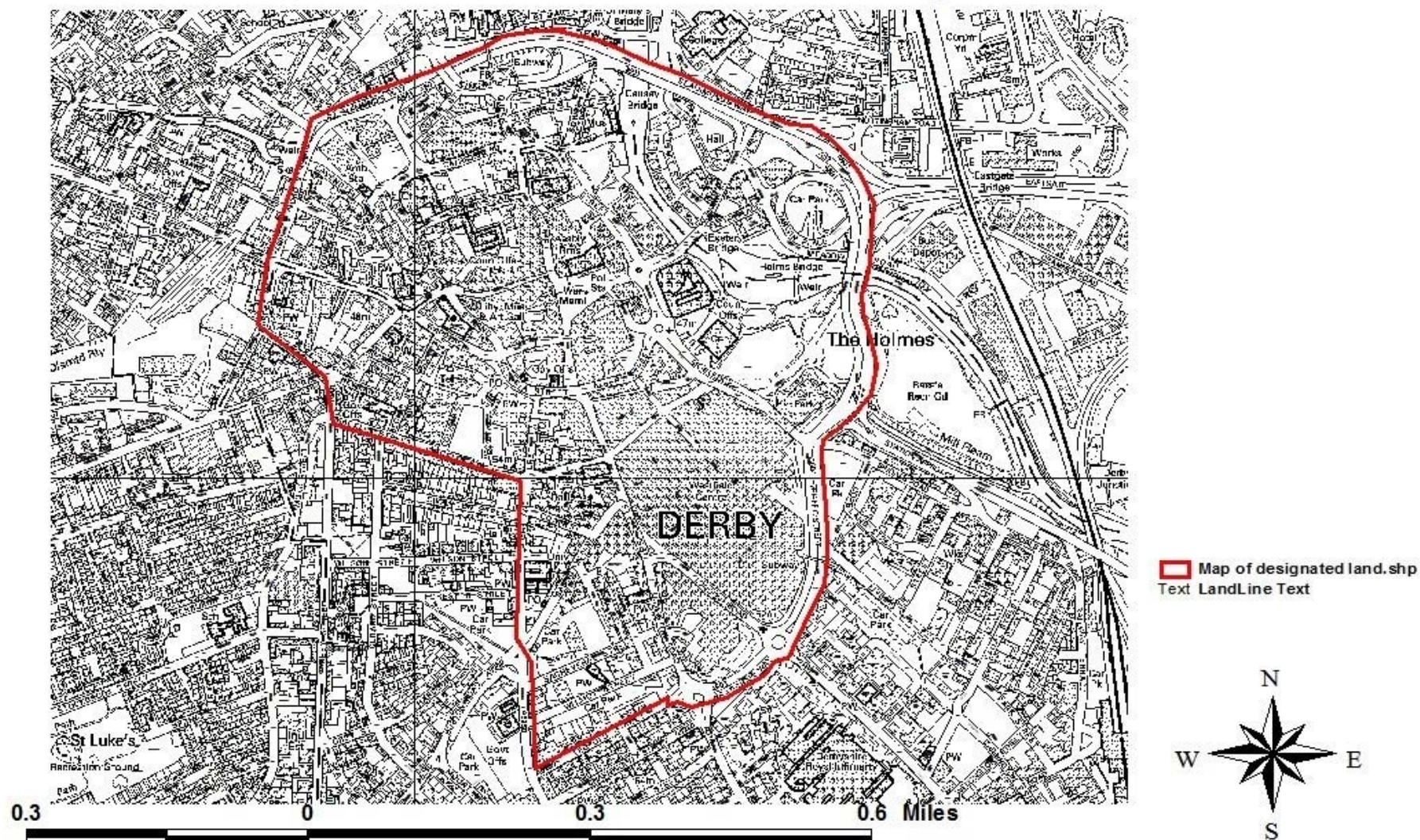
Value for money

- 7.1 The proposal would reduce the burden on existing Council services to keep the city clean, making them more efficient.

Corporate objectives and priorities for change

- 8.1 SSC2 - To improve levels of safety and cleanliness and to develop confidence and pride across our communities and neighbourhoods.

Designated Area Where The Distribution of Free Printed Literature Requires Consent.



**ENVIRONMENTAL PROTECTION ACT 1990 (AS AMENDED BY THE CLEAN
NEIGHBOURHOODS AND ENVIRONMENT ACT 2005)**

**NOTICE OF PROPOSED SCHEME FOR DESIGNATING LAND TO CONTROL THE
DISTRIBUTION OF FREE PRINTED MATTER IN DERBY CITY CENTRE (NOTICE PUBLISHED
ON THE COUNCILS WEBSITE ON 18/10/10)**

Background

The Environmental Protection Act 1990 contains powers (brought in by the Clean Neighbourhoods and Environment Act 2005) for Councils to control the distribution of free printed matter where areas are being defaced by litter arising from such activities.

Derby City Council has determined that Derby City Council is being defaced by litter from the distribution of free printed matter and is proposing to make an order designating all relevant land and highways in the City Centre as an area where the distribution of free printed matter without a consent from the Council is prohibited. It is proposed that the Order comes into effect from the 1st of February 2011. After this date it will be an offence to distribute free printed matter in the designated area without consent. **Derby City Council hereby gives notice of its proposal to make such an Order.** The Council is advertising this proposed scheme by advertising it in the local press, posting details on land in the proposed designated area and on the Councils website from 18 October 2010.

The Designated Area

The designated area includes all the relevant land and highways under the control of the Council within the city centre defined by the following boundary route:

St Alkmunds Way to The Cock Pitt via Causey Bridge, Traffic Street, Bradshaw Way, Leopold Street to Macklin Street via Green Lane, Macklin Street to Ford Street via Abbey Street, Friary Street and Stafford Street, Ford Street to St Alkmunds Way.

The designated area is shown within the red boundary shown on the [attached map](#).

You will be able to apply for consent to distribute free printed matter within the designated area.

The Council is permitted to charge a fee to give consent to persons wishing to distribute free printed matter in the designated area and can attach conditions to control the distribution of such material. The proposed charges, designated area map, consent conditions and guidance for distributors are available to view on the following pages. Documentation can also be viewed in person at **Derby City Council, Environment and Regulatory Services Department, 1st Floor Reception, Celtic House, Heritage Gate, Friary Street, Derby, DE1 1QX**

Any objections to this proposed scheme can be made in writing/email/or in person to:-

John Tomlinson – Service Director
Environment and Regulatory Services Department
Derby City Council
Celtic House
Heritage Gate
Friary Street
Derby
DE1 1QX

Email: environmental.services@derby.gov.uk

Any objections must be received by 1 November 2010

Any objections received after this date will not be considered.

Any objections will be responded to in writing.

Following consideration of any objections, if the Council still intends to make an Order relating to the commencement of a consent scheme for the distribution of free printed matter within the City Centre this will be publicised in accordance with Schedule 3A of the Environmental Protection Act 1990 in due course, at least 14 days before the Order is due to come into force. The Notice giving details of the commencement date of the Order would be publicised by advertising it in the local press, posting details on land in the proposed designated area and on the Council's website.

NOTE

A notice in similar format was also posted on land in the area and the Derby Evening Telegraph.

DERBY CITY COUNCIL

CONTROLLING THE DISTRIBUTION OF FREE PRINTED LITERATURE IN DERBY CITY CENTRE

ENVIRONMENTAL PROTECTION ACT 1990 SECTION 94B/SCHEDULE 3A

CONSENT TO DISTRIBUTE FREE PRINTED MATTER

PROPOSED STANDARD CONDITIONS OF CONSENT (Published 18/10/10)

Please note that appropriate additional conditions may be imposed having regard to the nature of the material to be distributed, and the times and places where that distribution may take place.

1. All persons engaged in the distribution of free printed material by virtue of this consent must wear a clearly visible authorisation badge issued by the Council, bearing the relevant consent number and the name and address of the consent holder. The authorisation badge must be visible at all times that a distribution is taking place and produced on demand to an authorised officer of the Council or Police Officer/Community Support Officer.
2. Applicants granted consent will be given one permit to be used by whoever the consent holder wishes to distribute free printed matter ("the Distributor") for the period and in the areas that the consent has been granted for. This consent is not transferable and authorisation badges are not interchangeable between consent holders. If the applicant wishes to use more than one person at any one time to distribute free printed matter they will need to make sure additional permits are obtained for each additional distributor required.
3. It is the consent holders responsibility to make sure that distributors are aware of the conditions of the consent and for ensuring that the conditions are complied with.
4. Consent holders and their distributors must not obstruct, intimidate or threaten any officer whilst they are enforcing the scheme.
5. The consent holder is permitted to promote the name(s) and/or venue(s) specified in the consent permit. The specified name(s)/venue(s) will be printed on the consent and every badge requested.
6. The free printed matter must bear the contact details of the company or venue that is being promoted.
7. Restrictions may be made regarding the number of distributors to be allowed in a particular area at a particular time. If this applies the applicant will be made aware of this.
8. It is the responsibility of the consent holder to maintain a record of who has been given the badge enabling the distribution of free printed matter. The record shall be

made available forthwith for inspection by authorised officers of the Council or a Police Officer/Community Support Officer on request at all reasonable times.

9. Free printed material must only be distributed in a safe location that does not occur on any days or times other than those specified in the consent.
10. Free printed material must only be distributed in a safe location that does not cause obstruction or inconvenience to pedestrians, road users or businesses nearby.
11. No free literature shall be placed on parked vehicles, attached to parked vehicles or fixed to parked vehicles.
12. The distribution of stickers and other self adhesive printed material is not permitted on designated land.
13. No free printed matter shall be left unattended by the distributor for the general public to take at their discretion.
14. If an authorised officer of the City Council or a Police Officer/Police Community Support Officer requests the distributor to pick up discarded literature, the distributor shall do so immediately, providing that it is safe to do so.
15. Any litter within 50 metres of the distribution point which has occurred from discarded free material that has been distributed by the consent holder/consent holders distributors shall be cleared forthwith by the consent holder/consent holders distributors.
16. A distributor moving from point to point whilst distributing free printed matter will still have responsibility to collect discarded free printed matter within a radius of 50 metres of all points where the distribution took place.
17. If an authorised officer of the Council considers the area requires clearing of discarded printed material by the consent holder/distributor, his/her assessment and any subsequent request will be considered definitive at the time. Challenges to that assessment will only be accepted through the formal appeal process.
18. All free printed material must meet the standards of the Advertising Standards Authority. Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation, age or disability. Compliance will be judged on the context, medium, audience, product and prevailing standards of decency. Free printed matter must be appropriate to be read by the general public and in particular:-
 - a. Material must not be of a racist nature.
 - b. No obscene words, use of bad language or images of a sexual nature or any other device, image or word likely to cause offence will be acceptable.
 - c. Material cannot be used that condones or encourages anti-social behaviour or refers to getting drunk in a positive way.
19. Any breach of the consent conditions may result in enforcement action being taken under the provisions of the relevant legislation which may include the issuing of a

fixed penalty notice, prosecution, varying the consent conditions or revocation of the consent.

20. This consent and any distribution badges issued under it remain the property of Derby City Council and must be returned to the Council if the consent is revoked in accordance with Paragraph 3(7) of Schedule 3A of the Environmental Protection Act 1990, or if the Council decide to vary or revoke any of the conditions of this consent by virtue of Paragraph 3(8) of that Schedule.
21. If any conditions of the consent are breached the consent may be varied, limited or revoked by Derby City Council.

DERBY CITY COUNCIL

CONTROLLING THE DISTRIBUTION OF FREE PRINTED LITERATURE IN DERBY CITY CENTRE

**ENVIRONMENTAL PROTECTION ACT 1990 SECTION 94B/SCHEDULE 3A
CONSENT TO DISTRIBUTE FREE PRINTED MATTER**

PROPOSED GUIDANCE NOTES AND FEES FOR APPLICANTS (Published 18/10/10)

INTRODUCTION

The Clean Neighbourhoods and Environment Act 2005 inserted Schedule 3A into the Environmental Protection Act 1990 which enables the City Council to designate land and places (Relevant Land) where the distribution of free printed matter is prohibited without the prior consent of the City Council.

The distribution of free leaflets and other free printed matter can blight public spaces if they are subsequently dropped as litter. The purpose of the legislation is to help control these distributions and associated litter problems.

“Free printed matter” includes amongst other things newspapers, leaflets, pamphlets, cards, stickers, containers and any similar items. Printed matter is “free” if it is distributed without charge to the persons to whom it is distributed.

“Distribute” means to give free printed matter out to, or to offer to make it available to, members of the public and includes placing it on or affixing it to vehicles but does not include putting it inside a building or letter-box. The provisions will apply to printed material distributed to the public from a vehicle/stand on designated land.

“Relevant Land” includes all public places in the open air owned and managed by the City Council which have been designated by order. Details of land that has been designated as relevant land are shown on the [attached map](#). In Derby, this relates to land in the city centre.

“Relevant Highway” includes streets and pavements maintainable at the public expense for which the City Council is responsible.

Derby City Council charges a fee for granting consent to any distributor.

This legislation does not apply and consent under this legislation is not required for the distribution of free printed matter relating to:-

- By or on behalf of a charity within the meaning of the Charities Act 1993, where the free printed matter relates to or is intended for the benefit of the charity.
- Where the distribution is for political purposes or for the purposes of a religion or belief.
- By a person who distributes the free printed matter by delivering it into a building or letter-box.

Distribution of printed literature by a Public Body or Public Service (e.g. Armed Forces, Fire Service etc.) will not be subject to a fee, but the distributor will be expected to comply with the general Consent Conditions.

Designated Streets and Places

Derby City Council has by Order designated the areas identified on the [attached map](#) so that the distribution of free printed material within these areas is prohibited without the prior consent of the City Council. If you wish to distribute any free printed matter on the relevant land and relevant highway within these areas you must obtain the prior consent of Derby City Council.

Consent is not currently required from Derby City Council if you wish to distribute free printed matter on relevant highway or on relevant land which is not included on the attached plan. However, if distribution is planned within land falling within another Local Authorities area consent may be required for the distribution from that Authority and the applicant is advised to contact that authority for more information.

Application for Consent to Distribute Free Literature

Please apply on Derby City Council's [Distribution of Free Printed Matter Application Form](#). This is also available from Environment and Regulatory Services, Celtic House, Heritage Gate, Friary Street, Derby, DE1 1QX, telephone 01332 641333. **PLEASE NOTE that Derby City Council must receive the completed application form not less than ten working days before the date you would like to start to distribute free printed matter.**

Derby City Council reserves the right to refuse to give consent to any applicant where it considers that the proposed distribution would be likely to lead to defacement of the designated land.

Derby City Council reserves the right to refuse to give consent if the applicant has been convicted of an offence of distributing free printed matter without consent within the last 5 years, or paid a fixed penalty notice relating to this offence in the last 3 years.

Refused applicants may appeal to the Magistrates Court against a refusal.

Fee for Application

A consent can be applied for upon payment of the appropriate fee. The amount of fee to be paid is determined by a number of factors including the proposed times and days when you would like to distribute free printed matter. You should use the information contained in **Tables A - F** at the end of this document to determine what points you score and therefore the relevant fee to be paid. Once consent has been given the permit issued applies for 12 months or 14 days dependent on the type of permit applied for. At the end of this period you will need to apply for a consent renewal.

If you wish to apply for a 14 day permit only you do not need to calculate the points total. The cost for a 14 day permit is shown in Table F.

Your application will not be considered until payment of the appropriate fee has been received by Derby City Council. The fee is not refundable, even if distribution ceases before the end of the 12 month/14 day consent period.

Cheques should be made to "Derby City Council".

If consent is granted, who can distribute the free printed matter ?

Each consent, if granted, will allow one person to distribute free printed matter at any one time for the period and in the area(s) that the consent has been granted for. If you wish to have more than one person distributing free printed matter at any one time a separate application will have to be made to Derby City Council and additional fee will be payable with each additional application. The cost of any additional permit is dependent on the points total for the application and are shown in Table E.

Conditions likely to be imposed on a consent, if granted

- You will be restricted to the times and days you apply for and consents will be subject to conditions which may restrict, for example, the time and places where free printed matter may be distributed and the type of material which may be distributed. It should be noted that the City Council does not endorse your business/product/event if it grants consent to distribute free printed matter. All consents will also be subject to the following standard conditions.
- Each annual permit will be valid for one year running from the date of issue. No refunds will be given if distribution ceases during the course of the year. 14 day permits are valid for 14 days from the date of issue.
- Applicants granted consent will be given one permit to be used by whoever the consent holder wishes to distribute free printed matter ("the Distributor") for the period and in the areas that the consent has been granted for. This consent is not transferable and authorisation badges are not interchangeable between consent holders. If the applicant wishes to use more than one person at any one time to distribute free printed matter they will need to make sure additional permits are obtained for each additional distributor required.
- It is the consent holders responsibility to make sure that distributors are aware of the conditions of the consent and for ensuring that the conditions are complied with.
- All individuals engaged in the distribution of free printed matter shall wear a badge issued by Derby City Council bearing the issue number of the consent and showing the name and address of the consent holder. The badge must clearly visible.
- The above badge shall be produced on demand by an authorised officer of Derby City Council or a Police Officer/Police Community Support Officer.
- No free literature shall be placed on parked vehicles, attached to parked vehicles or fixed to parked vehicles.
- The distribution of stickers and other self adhesive printed material is not permitted on designated land.

- No free printed matter shall be left unattended by the distributor for the general public to take at their discretion.
- All free printed material must meet the standards of the Advertising Standards Authority. Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation, age or disability. Compliance will be judged on the context, medium, audience, product and prevailing standards of decency.
- If an authorised officer of the City Council or a Police Officer/Police Community Support Officer requests the distributor to pick up discarded literature, the distributor shall do so immediately, providing that it is safe to do so.
- Any litter within 50 metres of the distribution point which has occurred from discarded free material that has been distributed by the consent holder/consent holders distributors shall be cleared forthwith by the consent holder/consent holders distributors.
- A distributor moving from point to point whilst distributing free printed matter will still have responsibility to collect discarded free printed matter within a radius of 50 metres of all points where the distribution took place.
- If an authorised officer of the Council considers the area requires clearing of discarded printed material by the consent holder/distributor, his/her assessment and any subsequent request will be considered definitive at the time. Challenges to that assessment will only be accepted through the formal appeal process.
- The free printed matter must bear the name and address of the consent holder who is responsible for its distribution.
- Restrictions may be made regarding the number of distributors to be allowed in a particular area at a particular time. If this applies the applicant will be made aware of this.
- It is the responsibility of the consent holder to maintain a record of who has been given the badge enabling the distribution of free printed matter. The record shall be made available forthwith for inspection by authorised officers of the Council or a Police Officer/Community Support Officer on request at all reasonable times.
- Consent holders and their distributors must not obstruct, intimidate or threaten any officer whilst they are enforcing the scheme.
- If any conditions of the consent are breached the consent may be varied, limited or revoked by Derby City Council.

Right of appeal

There is a right of appeal to the Magistrates Court against the refusal to issue a consent, against any conditions attached to the consent or the revocation of a consent.

Offences

It is an offence under Schedule 3A of the Environmental Protection Act 1990 for any person to distribute free printed matter on land designated by Derby City Council without consent from Derby City Council. Offenders are liable on conviction to a fine not exceeding £2500. A fixed penalty currently of £75 can be issued as an alternative to prosecution.

It is also an offence if a person causes another person to distribute any free printed material without Derby City Councils consent on designated land. Offenders are liable on summary conviction to a fine not exceeding £2500. A fixed penalty of £75 can be issued as an alternative to prosecution.

An authorised officer of Derby City Council may also seize any free printed material from a person found distributing it in a designated place without the consent of Derby City Council.

Replacement Badges

A fee will be charged to replace a lost or missing badge. Any replacement badge will be issued for the remaining period of the consent. Distribution may not take place until the replacement badge has been issued on payment of the replacement fee.

DISTRIBUTION OF FREE LITERATURE

DETAILS OF OBJECTIONS/COMMENTS RECEIVED AND RESPONSES

OBJECTIONS/COMMENTS RECEIVED	OFFICERS COMMENTS	RECOMMENDATION
<p>From: Ian Gibson Sent: 19 October 2010 10:03</p> <p>I have no vested interest in your Order to control the distribution of Free Printed Literature in Derby City Centre but I object to a layer of bureaucracy being added that will presumably be financed by the Derby council tax payer. How many staff will be employed to monitor this scheme, and at what cost? Surely it would be cheaper for someone to pick up a flyer off the pavement and prosecute the originator. Particularly in these "austere" times it seems nonsensical.</p>	<p>The provisions that enable local authorities to introduce schemes to control the distribution of free literature were introduced by the Clean Neighbourhoods and Environment Act 2005 as a result of increasing problems with litter resulting from discarded material. It is designed to help reduce litter problems that cause defacement and place some responsibility on distributors to control their actions. Clearing discarded free material places an additional street cleaning burden on Derby City Council. Some materials such as self adhesive items are particularly difficult to remove and blight buildings in the area. Currently there are no restrictions on the amount or type of material that can be distributed.</p> <p>The proposed scheme would be administered by staff within the Neighbourhoods Directorate of Derby City Council, with no additional resources being utilised. Therefore it is not anticipated that there will be additional costs to the authority in administering the scheme. Indeed, it is hoped that the reduction in discarded material will provide some savings in terms of cleaning costs.</p> <p>Regarding the prosecution of originators, by introducing the consent scheme this places a responsibility on distributors to control their actions. This would enable the Council to regulate distributors by working with them to ensure that</p>	<p>To note the objection and answer the points raised. However in officers opinion the issues raised in this objection do not justify amendment or cancellation of the proposals, and that the objector be informed that the council still intends to</p>

	they are aware of their responsibilities and meet their obligations. If the distribution of free literature takes place without consent then enforcement action can be taken with the originator being fined or prosecuted.	continue with the proposed Order.
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OBJECTIONS/COMMENTS RECEIVED	OFFICERS COMMENTS	RECOMMENDATION
<p>From: Jane Temple Sent: 26 October 2010 16:58 (by email)</p> <p>I wish to object to the proposed scheme to control the distribution of free printed literature in the city centre.</p> <p>I understand the desire to restrict the distribution of free literature promoting businesses, especially clubs and bars, in an effort to reduce litter. I have some sympathy with this aim.</p> <p>Paragraphs 5 and 6 of the standard conditions of consent, together with tables C and D used in the calculation of the fee, imply that the scheme is intended to be restricted to literature promoting an entertainment or other type of venue or a business. I am concerned, however, that the wording of the scheme, as drafted in the proposal, appears to widen the scope to include other types of material.</p> <p>Firstly, I note that the guidance notes state that consent will not be required for the distribution of free printed matter where the distribution is for <i>"political purposes or for the purposes of a religion or belief"</i>. It is essential for freedom of speech that this exemption exists. Who will decide, however, whether or not the purpose is political or associated with a religion or belief?</p>	<p>The Act creates a specific exemption from the provisions where a distribution is for political, charitable or religious purposes, so as not to inhibit the right to freedom of expression and freedom of thought, conscience and religion enshrined in the European Convention of Human Rights and the Human Rights Act 1998.</p> <p>There is no definition of these terms in the legislation, and interpretation of them is a matter for the courts and European case law has apparently seen these terms interpreted widely. In</p>	

<p>Secondly, what about material that is not promoting a business but does not fall into the exemptions accorded to charitable and political purposes, such as printed literature that is providing advice or information? There is nothing to state that such material is exempt. So, according to the proposal, consent will be required. Is that really the intention? If so it would require, for example, the Cathedral Quarter rangers to apply for consent, and wear badges, to</p>	<p>all cases, the legislation allows for justifiable controls. However the decisions of local authorities to designate land and to give or refuse consent must still be compatible with Article 10 of the European Convention of Human Rights.</p> <p>Article 10 states that:</p> <p>(1) Everyone has the right of freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without inference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.</p> <p>(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p> <p>The intended scheme is not designed to inhibit free speech or freedom of thought.</p> <p>Ms Temple enquires about material that is not promoting a business that does not fall into the exemptions accorded to charitable and political purposes, such as material that provides advice or information. Where material is related to a public body or public service and is providing information related to this then this would be exempt and this is already mentioned in the proposed conditions and guidance. Such distribution would not require the distributor to formally apply for consent, pay a</p>	
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<p>hand out maps to visitors to the city. Information stalls set up in the city centre would also need consent to hand out literature. This could affect stalls run by:</p> <ul style="list-style-type: none"> * the police * the fire service * the council (e.g. the recent stall consulting on transport priorities in the city) <p>Although the fee would be waived in these three examples, because they relate to a <i>"Public Body or Public Service"</i>, the requirement to apply for consent, and wear badges, would still apply. Is this really the intention? It all seems needlessly burdensome and bureaucratic. Worse still, any group not classified as a public body or public service would have to pay a fee. This could affect many community groups and other organisations that do good work but are not registered charities. In many cases they might not be able to afford the fee. Does the council really wish to deter such groups from promoting their good works?</p> <p>For the scheme to be acceptable it must be far more tightly worded so that it applies only to printed literature promoting venues and businesses.</p>	<p>fee or be issued with a permit. However the Council should be notified that such a distribution is to take place and the distributor would still be expected to observe some of the consent conditions (such as those relating to clearing any discarded material, distributing in a safe place etc.). If the event is part of a space hire or agreement through Derby Live consent will be given as part of the space hire agreement. Some standard conditions will have to be observed and these will be detailed on the permission from Derby Live. As a result of this comment the guidance to applicants will be amended to clarify this.</p> <p>A comment is also raised about groups not classified as a public body or public service would still have to pay a fee. Any groups covered by the exemptions for charities, political purposes or for a religion or belief are exempted, as previously discussed. Other groups, such as the Scout Movement, Boys Brigade and similar community organisations are registered charities so would be exempt under the legislation. Other groups that do not fall into the exemptions would be required to apply for consent, but the cost of the consent fee for distributions of short duration in these circumstances is low and not designed to deter such groups. In many cases such groups will have arranged their event as part of a space hire agreement with Derby Live.</p>	<p>To note the objection and answer the points raised. The guidance to applicants will be amended to clarify the point raised about public bodies and services. The objector is be informed that these amendments will be made, but that the Council still propose to implement the proposals.</p>
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OBJECTIONS/COMMENTS RECEIVED	OFFICERS COMMENTS	RECOMMENDATION
<p>From: Richard Butler Sent: 19 October 2010 18:45 To: Tomlinson, John</p> <p>I object to the proposed controls on the distribution of free printed matter in the city centre.</p> <p>I accept that there are currently difficulties in the city centre, where 'promoters' of pubs and clubs hand out large numbers of flyers etc which are then thrown on the floor. However I feel that the order, as set out in the documents at www.derby.gov.uk/printedmatter does not do enough to protect the vital freedom of people to protest about things that matter to that person or their group; handing out leaflets is a vital part of raising public awareness of any particular concern.</p> <p>I note that there are provisions to exempt registered charities, but a definition is not provided as to what is a political purpose, a religion or belief; does a group protesting about against Derby City Council policy come under the definition of a political purpose? Having to apply to Derby City Council for permission to distribute leaflets that go against council policy can only lead one to suspect that permission will be refused or delayed, even without the burden of having to raise money to pay for the application.</p>	<p>The Act creates a specific exemption from the provisions where a distribution is for political, charitable or religious purposes, so as not to inhibit the right to freedom of expression and freedom of thought, conscience and religion enshrined in the European Convention of Human Rights and the Human Rights Act 1998.</p> <p>There is no definition of these terms in the legislation, and interpretation of them is a matter for the courts and European case law has apparently seen these terms interpreted widely. In all cases, the legislation allows for justifiable controls. However the decisions of local authorities to designate land and to give or refuse consent must still be compatible with Article 10 of the European Convention of Human Rights.</p> <p>Article 10 states that:</p> <p>(1) Everyone has the right of freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and</p>	

	<p>ideas without inference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.</p> <p>(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.</p> <p>The intended scheme is not designed to inhibit free speech or freedom of thought. The type of activity Mr Butler describes would not be subject to consent.</p>	
<p>I also note that this order will affect the distribution of the Metro newspaper. Is that a good idea and beneficial to Derby as a city? Irrespective of one's personal view about the quality of the news within the paper, the paper is well received by many local people in the city centre. Further, this restriction on the distribution of the paper can only lead to an increase in un-employment among the people who currently distribute the paper in the city centre; do we want that to be happening in the current economic climate? Have the views of the publishers of the Metro paper been sought in this matter?</p>	<p>The relevant legislation applies to free newspapers. These are distributed widely and are discarded in the same way as other free literature covered by the legislation. The proposed scheme has been publicised in the prescribed manner and the Metro newspaper has been contacted directly. No objection to the proposal has been received.</p>	
<p>Would it be much better to design the legislation so as only to curtail the problem of flyers for pubs and clubs; after all it is these specific parties who are probably causing the problem of litter. If Derby City Council do alter their proposals, they will be</p>	<p>Discarded free literature has occurred from sources other than pubs and clubs. The proposed scheme recognises the right to protest and disseminate information and is discussed above.</p>	

<p>preserving the vital un-fettered right to protest and disseminate information., as well preserving the useful and well used service of the distribution and reading of the Metro newspaper.</p> <p>May I respectfully suggest that by making the rules only apply to free printed matter being distributed after the time of 18:00, and applying the rules for seven days a week, then that will achieve the desired aim of restricting the creation of litter, yet the other undesirable results of the proposed orders will be avoided.</p> <p>From: Richard Butler Sent: 25 October 2010 14:59 To: Tomlinson, John</p> <p>I have earlier objected to the proposed restrictions on free printed literature being distributed in Derby City Centre. I have now had a while to think through the legislation as proposed, and it seems to me that it will not achieve its desired aims. Please note that I still object to the proposed legislation.</p> <p>I will now propose a series of potential scenarios, and I think that DCC should then consider how their proposed legislation will deal with them:</p> <p>1) The distributors of the free printed literature stand in the private doorways of banks or shops etc, therefore they are not standing on relevant land under the control of DCC (Derby City Council); under what section of the legislation, does the legislation apply to them?</p>	<p>In terms of the Metro newspaper, the scheme is not intended to stop this distribution, but to put some controls in place. The cost of the proposed fee for distribution is less for free newspapers than it is for entertainment venues.</p> <p>Issues with discarded free printed literature do occur at times other than after 18:00 hours. However, the proposed fee for consent to distribute literature at times before 18:00 is less than the fee after that time.</p> <p>If the distribution takes place only on private land, this is not covered by the proposals. However if a distributor stands on a private area but is handing out leaflets to passers by who are still on the highway or public land and the hand over itself takes place on designated land then this would still be covered by the proposals. The distribution would have to take place solely on private land for it not to be covered, and in that scenario the legislation does not apply. It is unlikely that this scenario will arise.</p>	<p>To note the objection and answer the points raised. However in officers opinion the issues raised in this objection do not justify amendment or cancellation of the proposals, and that the objector be informed that the council still intends to continue with the proposed Order.</p>
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<p>2) If, in the scenario laid out in 1) above, DCC believe that that their legislation does apply to free printed literature being handed out by people on private land, then how will DCC then deal with Betting Shops (which are on private land) etc where vast numbers of betting slips (whose description fits that of 'free printed literature') are available and made freely available by them? Does the legislation apply to such betting shops?</p> <p>3) A number of Estate Agents in the city centre distribute, from racks just inside their doors, copies of the Derby Telegraph property section (a newspaper). That property section is available free of charge, even though it has a cover price of 38p(?) when sold separately, but the Estate Agents chose not to charge for the newspaper. Does the legislation apply to these Estate Agents?</p> <p>4) People distributing printed literature stand on private ground and hand out flyers etc that have a 'price' of One pence printed on them, therefore the flyers etc are not free, but the distributors chose not to charge recipients the 1p price. Do they, or the pub/club require a licence to distribute their 1p</p>	<p>Regarding the point made about betting shops, controls on the distribution of free literature does not apply to people giving out the material on private land, and thus is not relevant to free printed matter given out to customers within the premises. However if there are problems with litter of any kind from certain premises then the authority may introduce a Street Litter Control Notice under Section 93/94 of the Environmental Protection Act 1990 which can place requirements on the business to take steps to stop land in the open air which is part of the premises, part of the street or public land becoming subject to recurrent defacement by litter. Therefore if someone is distributing literature from a private premises (which is not covered by the restrictions on free printed literature) and the area around that premises is becoming defaced, this can be controlled. Betting Shops are covered by this provision. Therefore if discarded betting slips are causing litter problems outside a betting shop, whilst this is not subject to the controls on distributing free printed literature, this can still be controlled.</p> <p>Where premises make printed matter available within private premises such as offices and shops the legislation does not apply. Therefore the legislation does not apply to such stands in Estate Agents.</p> <p>Material distributed on private land, even if free, is not covered by the legislation, as previously discussed. If the material is distributed on designated land and a fee is charged (irrespective of the amount) the legislation does not apply. If the material was listed as costing 1 pence for</p>	
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<p>flyers from private ground? What would be the case if they were distributing their 1p flyers from council land, surely DCC cannot force people to charge a fee, if that distributor chooses to give away their valuable product?</p> <p>5) There are number of farmers markets, continental markets, shows etc that take place on council controlled land in the Market Place and quite probably other similar spaces within the proposed boundary's of the legislation. The participants in these markets etc are private individuals engaged in private enterprise, and not carrying out a council or charitable function. If they put out flyers on their stalls etc, as they often do, then as your legislation is currently proposed, they will require a permit for distributing that free printed literature. If DCC believe that in this situation the private individuals putting out flyers, do not need a permit, then under what part of the legislation do these individuals gain such an exemption?</p> <p>I'm sure that there are many more possible situations that make this proposal unworkable. So these proposals are not only deeply ill-liberal (for the reasons I have outlined in my objection), but also not fully thought through if DCC wants to achieve its desired aims of stopping pubs and clubs making a mess of Sadler Gate etc. I'm sure if DCC try to implement this legislation and try and prosecute someone, then a well paid lawyer will run rings around the prosecution, and then hand DCC a very large bill for their services.</p>	<p>example, but the distributor chose not to charge a fee then the material would be regarded as 'free' and subject to the consent restrictions.</p> <p>Having regard to this comment, such events are subject to a space hire agreement with Derby Live. In this case a fee has already been paid. Taking this, and other comments into account, it is now proposed that although consent to distribute free printed literature still applies in these cases, consent will be granted as part of the space hire agreement and included in the fee. This will also apply to other stalls and trailers used as part of similar agreements. The stall holders will have to comply with some of the standard conditions, such as retrieval of discarded material. The guidance for applicants has been amended to reflect this.</p> <p>The proposals are made in accordance with the provisions of the relevant legislation and similar schemes are in place with other local authorities across the country. There are exemptions for certain groups and freedom of speech and expression is not being curtailed. The aim of the proposals is not to ban such activity, but to control it and prevent the defacement of the city centre by discarded litter, which arises from a number of sources. In the event of a prosecution being taken in the future (should that be required) then the outcome will be a matter for the court to decide.</p>	<p>To note the objections and answer the points raised. The guidance to applicants will be amended to clarify the point raised about markets and other events. The objector is be informed that these amendments will be made, However in officers opinion the other issues raised in this objection do not justify amendment or cancellation of the proposals, and that the objector be informed that the council still intends to continue with the proposed Order.</p>
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OBJECTIONS/COMMENTS RECEIVED	OFFICERS COMMENTS	RECOMMENDATION
<p>From: Sandra Hull Sent: 26 October 2010 11.03</p> <p>I wish to object to the proposal to introduce permits for the distribution of free printed literature in the city centre. Permits should be restricted to shops, pubs & clubs and not introduced across the board.</p>	<p>In general the proposed scheme does relate to commercial activities and there are exemptions for charitable, religious/beliefs and political purposes specifically mentioned in the relevant legislation. In addition the scheme proposed in Derby also excludes public service information and bodies such as the armed forces, Police etc.. There are few other circumstances where distribution is likely to take place.</p>	<p>To note the objection and answer the points raised. However in officers opinion the issues raised in this objection do not justify amendment or cancellation of the proposals, and that the objector be informed that the council still intends to continue with the proposed Order.</p>

OBJECTIONS/COMMENTS RECEIVED	OFFICERS COMMENTS	RECOMMENDATION
<p>From: Ian Harries Harewood Operations Ltd</p> <p>I note that notices have been displayed throughout the city centre stating the intention of the city council to control the distribution of free printed material with effect from 1st February 2011.</p> <p>I write on behalf of a company that distributes printed material within the designated area between the hours of 10pm and 2am at least 4 times a week.</p> <p>I have read the proposed standard conditions of consent.</p> <p>I would ask for clarity please on condition number 7 'restrictions <u>may</u> be made regarding the number of distributors to be allowed in a particular area at a particular time. If this applies the applicant will be made aware of this.' For the avoidance of doubt I suggest that 'the restrictions' should be laid out as part of this process.</p>	<p>At the present time there are no set levels regarding the number of permits that a distributor could apply for. The likely scenario where this would apply is where the number of distributors in any one place could give rise to obstruction of the street or annoyance to passers by which would mean it may be necessary to control numbers. If this situation did arise then this would be</p>	

<p>It further states that 'Derby City Council' reserves the right to refuse to give consent to any applicant where it considers that the proposed distribution would be likely to lead to defacement of the designated land'. Again, for the avoidance of doubt this statement needs clarifying further please.</p>	<p>discussed with distributors in the area before any restriction was considered. At the present time it is felt that a set limit should not be placed as it is not felt that this is an issue at the present time. However the condition should be retained in the event that this is an issue that needs to be considered.</p> <p>This phrase comes from the Paragraph 3 of Schedule 3A of the Environmental Protection Act 1990. There is no requirement for the local authority to grant consent to an applicant, but we would have to be able to justify any refusal based on the likelihood of the distribution causing defacement of the local environment. In the majority of cases for applicants this is not thought to be an issue. This part of the legislation is intended to cover potential eventualities where a distributor has caused defacement in the past or where there is a distribution planned that is of such a scale and/or planned in such a way that its is unable to meet the standard conditions. This seems to be a standard condition with other Local Authorities too. The guidance for applicants has been amended to clarify this.</p>	<p>To note the objections and answer the points raised. The guidance to applicants will be amended to clarify the point raised about refusal of permission. The enquirer is be informed that these amendments will be made, However in officers opinion the issues raised do not justify cancellation of the proposals, and that Mr Harries be informed that the council still intends to continue with the proposed Order.</p>
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DERBY CITY COUNCIL**ENVIRONMENTAL PROTECTION ACT 1990 SECTION 94B/SCHEDULE 3A****CONSENT TO DISTRIBUTE FREE PRINTED MATTER****REVISED PROPOSED STANDARD CONDITIONS OF CONSENT**

Please note that appropriate additional conditions may be imposed having regard to the nature of the material to be distributed, and the times and places where that distribution may take place.

1. All persons engaged in the distribution of free printed material by virtue of this consent must wear a clearly visible authorisation badge issued by the Council, bearing the relevant consent number and the name and address of the consent holder. The authorisation badge must be visible at all times that a distribution is taking place and produced on demand to an authorised officer of the Council or Police Officer/Community Support Officer.
2. Applicants granted consent will be given one permit to be used by whoever the consent holder wishes to distribute free printed matter ("the Distributor") for the period and in the areas that the consent has been granted for. This consent is not transferable and authorisation badges are not interchangeable between consent holders. If the applicant wishes to use more than one person at any one time to distribute free printed matter they will need to make sure additional permits are obtained for each additional distributor required.
3. If you are holding an event in the City Centre, and have booked a space hire or agreement with Derby Live, including having a stall or trailer and intend to make free printed literature available, consent to distribute free printed matter is included within your space hire fee. You will not be issued a separate permit or badge but you will be required to comply with standard conditions of consent 4, 5, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22.
4. It is the consent holders responsibility to make sure that distributors are aware of the conditions of the consent and for ensuring that the conditions are complied with.
5. Consent holders and their distributors must not obstruct, intimidate or threaten any officer whilst they are enforcing the scheme.
6. The consent holder is permitted to promote the name(s) and/or venue(s) specified in the consent permit. The specified name(s)/venue(s) will be printed on the consent and every badge requested.
7. The free printed matter must bear the contact details of the company or venue that is being promoted.
8. Restrictions may be made regarding the number of distributors to be allowed in a particular area at a particular time. If this applies the applicant will be made aware of this.

9. It is the responsibility of the consent holder to maintain a record of who has been given the badge enabling the distribution of free printed matter. The record shall be made available forthwith for inspection by authorised officers of the Council or a Police Officer/Community Support Officer on request at all reasonable times.
10. Free printed material must only be distributed in a safe location that does not occur on any days or times other than those specified in the consent.
11. Free printed material must only be distributed in a safe location that does not cause obstruction or inconvenience to pedestrians, road users or businesses nearby.
12. No free literature shall be placed on parked vehicles, attached to parked vehicles or fixed to parked vehicles.
13. The distribution of stickers and other self adhesive printed material is not permitted on designated land. Note: this condition currently only applies to entertainment venues.
14. No free printed matter shall be left unattended by the distributor for the general public to take at their discretion.
15. If an authorised officer of the City Council or a Police Officer/Police Community Support Officer requests the distributor to pick up discarded literature, the distributor shall do so immediately, providing that it is safe to do so.
16. Any litter within 50 metres of the distribution point which has occurred from discarded free material that has been distributed by the consent holder/consent holders distributors shall be cleared forthwith by the consent holder/consent holders distributors.
17. A distributor moving from point to point whilst distributing free printed matter will still have responsibility to collect discarded free printed matter within a radius of 50 metres of all points where the distribution took place.
18. If an authorised officer of the Council considers the area requires clearing of discarded printed material by the consent holder/distributor, his/her assessment and any subsequent request will be considered definitive at the time. Challenges to that assessment will only be accepted through the formal appeal process.
19. All free printed material must meet the standards of the Advertising Standards Authority. Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation, age or disability. Compliance will be judged on the context, medium, audience, product and prevailing standards of decency. Free printed matter must be appropriate to be read by the general public and in particular:-
 - a. Material must not be of a racist nature.
 - b. No obscene words, use of bad language or images of a sexual nature or any other device, image or word likely to cause offence will be acceptable.

- c. Material cannot be used that condones or encourages anti-social behaviour or refers to getting drunk in a positive way.
- 20. Any breach of the consent conditions may result in enforcement action being taken under the provisions of the relevant legislation which may include the issuing of a fixed penalty notice, prosecution, varying the consent conditions or revocation of the consent.
- 21. This consent and any distribution badges issued under it remain the property of Derby City Council and must be returned to the Council if the consent is revoked in accordance with Paragraph 3(7) of Schedule 3A of the Environmental Protection Act 1990, or if the Council decide to vary or revoke any of the conditions of this consent by virtue of Paragraph 3(8) of that Schedule.
- 22. If any conditions of the consent are breached the consent may be varied, limited or revoked by Derby City Council.

DERBY CITY COUNCIL

ENVIRONMENTAL PROTECTION ACT 1990 SECTION 94B/SCHEDULE 3A

CONSENT TO DISTRIBUTE FREE PRINTED LITERATURE

REVISED PROPOSED GUIDANCE NOTES AND FEES FOR APPLICANTS

INTRODUCTION

The Clean Neighbourhoods and Environment Act 2005 inserted Schedule 3A into the Environmental Protection Act 1990 which enables the City Council to designate land and places (Relevant Land) where the distribution of free printed matter is prohibited without the prior consent of the City Council.

The distribution of free leaflets and other free printed matter can blight public spaces if they are subsequently dropped as litter. The purpose of the legislation is to help control these distributions and associated litter problems.

“Free printed matter” includes amongst other things newspapers, leaflets, pamphlets, cards, stickers, containers and any similar items. Printed matter is “free” if it is distributed without charge to the persons to whom it is distributed.

“Distribute” means to give free printed matter out to, or to offer to make it available to, members of the public and includes placing it on or affixing it to vehicles but does not include putting it inside a building or letter-box. The provisions will apply to printed material distributed to the public from a vehicle/stand on designated land.

“Relevant Land” includes all public places in the open air owned and managed by the City Council which have been designated by order. Details of land that has been designated as relevant land are shown on the [attached map](#). In Derby, this relates to land in the city centre.

“Relevant Highway” includes streets and pavements maintainable at the public expense for which the City Council is responsible.

Derby City Council charges a fee for granting consent to any distributor.

This legislation does not apply and consent under this legislation is not required for the distribution of free printed matter relating to:-

- By or on behalf of a charity within the meaning of the Charities Act 1993, where the free printed matter relates to or is intended for the benefit of the charity.
- Where the distribution is for political purposes or for the purposes of a religion or belief.
- By a person who distributes the free printed matter by delivering it into a building or letter-box.

Mobile distribution of printed literature by a Public Body or Public Service (e.g. Local Authority, Police, Fire Service etc.) for public information on will not be subject to the need

to apply for formal consent, but the distributor will need notify the City Council and will be expected to comply with the standard Consent Conditions 10, 11, 13, 14, 15, 16, 17 and 18. However, if any distribution is taking place in connection with a space hire or agreement through Derby Live please note the following paragraph.

If you are holding an event in the City Centre, and have booked a space hire or agreement with Derby Live, including having a stall or trailer and intend to make free printed literature available, consent to distribute free printed literature is included within your space hire fee. You will not be issued a separate permit or badge but you will be required to comply with standard conditions of consent 4, 5, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22. These conditions will be detailed on your permission issued by Derby Live. Free printed literature in relation to a religion/belief, political and charitable purposes is exempt from the conditions relating to distribution.

Mobile distributors in relation to commercial activities will still be required to apply for a permit to distribute free printed literature through Environment and Regulatory Services and are subject to the appropriate fee.

Designated Streets and Places

Derby City Council has by Order designated the areas identified on the [attached map](#) so that the distribution of free printed material within these areas is prohibited without the prior consent of the City Council. If you wish to distribute any free printed matter on the relevant land and relevant highway within these areas you must obtain the prior consent of Derby City Council.

Consent is not currently required from Derby City Council if you wish to distribute free printed matter on relevant highway or on relevant land which is not included on the attached plan. However, if distribution is planned within land falling within another Local Authorities area consent may be required for the distribution from that Authority and the applicant is advised to contact that authority for more information.

Application for Consent to Distribute Free Literature

Please apply on Derby City Council's [Distribution of Free Printed Matter Application Form](#). This is also available from Environment and Regulatory Services, Celtic House, Heritage Gate, Friary Street, Derby, DE1 1QX, telephone 01332 641333.

PLEASE NOTE that Derby City Council must receive the completed application form not less than ten working days before the date you would like to start to distribute free printed matter.

For Details and applications for a space hire agreement in the city centre area centre please contact Derby Live on 01332 255800 or at boxoffice@derby.gov.uk.

Derby City Council reserves the right to refuse to give consent to any applicant where it considers that the proposed distribution would be likely to lead to defacement of the designated land. Where this happens the applicant will be informed of the decision and the reasons for refusal. Examples of where this might occur is where an applicant has caused defacement on a previous occasion or where there is a distribution planned that is of such a scale and/or planned in such a way that the distributors are unable to meet the standard conditions.

Derby City Council reserves the right to refuse to give consent if the applicant has been convicted of an offence of distributing free printed matter without consent within the last 5 years, or paid a fixed penalty notice relating to this offence in the last 3 years.

Refused applicants may appeal to the Magistrates Court against a refusal.

Fee for Application

A consent can be applied for upon payment of the appropriate fee. The amount of fee to be paid is determined by a number of factors including the proposed times and days when you would like to distribute free printed matter. You should use the information contained in **Tables A - F** at the end of this document to determine what points you score and therefore the relevant fee to be paid. Once consent has been given the permit issued applies for 12 months or 14 days dependent on the type of permit applied for. At the end of this period you will need to apply for a consent renewal.

If you wish to apply for a 14 day permit only you do not need to calculate the points total. The cost for a 14 day permit is shown in Table F.

Your application will not be considered until payment of the appropriate fee has been received by Derby City Council. The fee is not refundable, even if distribution ceases before the end of the 12 month/14 day consent period.

Cheques should be made to "Derby City Council".

If consent is granted, who can distribute the free printed matter ?

Each consent, if granted, will allow one person to distribute free printed matter at any one time for the period and in the area(s) that the consent has been granted for. If you wish to have more than one person distributing free printed matter at any one time a separate application will have to be made to Derby City Council and additional fee will be payable with each additional application. The cost of any additional permit is dependent on the points total for the application and are shown in Table E.

Conditions likely to be imposed on a consent, if granted

- You will be restricted to the times and days you apply for and consents will be subject to conditions which may restrict, for example, the time and places where free printed matter may be distributed and the type of material which may be distributed. It should be noted that the City Council does not endorse your business/product/event if it grants consent to distribute free printed matter. All consents will also be subject to the following standard conditions.
- Each annual permit will be valid for one year running from the date of issue. No refunds will be given if distribution ceases during the course of the year. 14 day permits are valid for 14 days from the date of issue.
- Applicants granted consent will be given one permit to be used by whoever the consent holder wishes to distribute free printed matter ("the Distributor") for the period and in the areas that the consent has been granted for. This consent is not transferable and authorisation badges are not interchangeable between consent

holders. If the applicant wishes to use more than one person at any one time to distribute free printed matter they will need to make sure additional permits are obtained for each additional distributor required.

- It is the consent holders responsibility to make sure that distributors are aware of the conditions of the consent and for ensuring that the conditions are complied with.
- Individuals engaged in the distribution of free printed matter shall wear a badge issued by Derby City Council bearing the issue number of the consent and showing the name and address of the consent holder. The badge must clearly visible. Where distribution is carried out in association with a space hire agreement with Derby Live, the consent will be included in the event permission and separate badges will not be issued.
- The above badge shall be produced on demand by an authorised officer of Derby City Council or a Police Officer/Police Community Support Officer.
- No free literature shall be placed on parked vehicles, attached to parked vehicles or fixed to parked vehicles.
- The distribution of stickers and other self adhesive printed material is not permitted on designated land.
- No free printed matter shall be left unattended by the distributor for the general public to take at their discretion.
- All free printed material must meet the standards of the Advertising Standards Authority. Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation, age or disability. Compliance will be judged on the context, medium, audience, product and prevailing standards of decency.
- If an authorised officer of the City Council or a Police Officer/Police Community Support Officer requests the distributor to pick up discarded literature, the distributor shall do so immediately, providing that it is safe to do so.
- Any litter within 50 metres of the distribution point which has occurred from discarded free material that has been distributed by the consent holder/consent holders distributors shall be cleared forthwith by the consent holder/consent holders distributors.
- A distributor moving from point to point whilst distributing free printed matter will still have responsibility to collect discarded free printed matter within a radius of 50 metres of all points where the distribution took place.
- If an authorised officer of the Council considers the area requires clearing of discarded printed material by the consent holder/distributor, his/her assessment and any subsequent request will be considered definitive at the time. Challenges to that assessment will only be accepted through the formal appeal process.

- The free printed matter must bear the name and address of the consent holder who is responsible for its distribution.
- Restrictions may be made regarding the number of distributors to be allowed in a particular area at a particular time. If this applies the applicant will be made aware of this.
- It is the responsibility of the consent holder to maintain a record of who has been given the badge enabling the distribution of free printed matter. The record shall be made available forthwith for inspection by authorised officers of the Council or a Police Officer/Community Support Officer on request at all reasonable times.
- Consent holders and their distributors must not obstruct, intimidate or threaten any officer whilst they are enforcing the scheme.
- If any conditions of the consent are breached the consent may be varied, limited or revoked by Derby City Council.

Right of appeal

There is a right of appeal to the Magistrates Court against the refusal to issue a consent, against any conditions attached to the consent or the revocation of a consent.

Offences

It is an offence under Schedule 3A of the Environmental Protection Act 1990 for any person to distribute free printed matter on land designated by Derby City Council without consent from Derby City Council. Offenders are liable on conviction to a fine not exceeding £2500. A fixed penalty currently of £75 can be issued as an alternative to prosecution.

It is also an offence if a person causes another person to distribute any free printed material without Derby City Councils consent on designated land. Offenders are liable on summary conviction to a fine not exceeding £2500. A fixed penalty of £75 can be issued as an alternative to prosecution.

An authorised officer of Derby City Council may also seize any free printed material from a person found distributing it in a designated place without the consent of Derby City Council.

Replacement Badges

A fee will be charged to replace a lost or missing badge. Any replacement badge will be issued for the remaining period of the consent. Distribution may not take place until the replacement badge has been issued on payment of the replacement fee.

Calculation of fees for Payments

To calculate the fee payable for a consent you will need to aggregate the number of points from three of the four tables attached. The points in Tables A and B will apply to all applicants. Added to this will be the points from either Table C or D. Table C essentially applies to entertainment venues and Table D to other types of business/premises. Please note that these fees apply for one distributor only. If you require more than one person to distribute free printed material you will need to pay an additional fee per person.

Table A – Frequency of Distribution (applicable to all applicants).
How many days a week do you wish to distribute ?

6 – 7 days per week	10 points
5 days per week	9 points
3 – 4 days per week	8 points
2 days per week	7 points
1 day per week	5 points

Table B – Frequency of Distribution (applicable to all applicants).
What times of the day do you wish to distribute ?

Thurs, Fri, Sat, Sunday	20.00 – 06.00	10 points
Thurs, Fri, Sat, Sunday	06:00 – 20.00	4 points
Monday to Wednesday	20.00 - 06.00	3 points
Monday to Wednesday	06.00 – 20.00	2 points

Please note that if you wish to distribute during more than one time period the points for those two or more periods should be added together.

Table C – Size of Venue (entertainment venues)

Over 2000	10 points
1300 - 1999	8 points
800 - 1299	6 points
150 - 799	4 points
Below 150	2 points

In the case of independent promoters, you will need to aggregate all the venues to be advertised to determine the level of fee. Each venue must be listed on the application form.

Table D – Type of premises/Business to be advertised (other than entertainment venues)

Retail and Wholesale outlets including fitness centres	5 points
Offers of part time/full time employment	5 points
Newspaper distribution	3 points

Table E – COST PER PERMIT

Points Total	Cost per permit	Cost per additional permit
25 points and above	£400	£100
20 – 24 points	£300	£75
15 – 19 points	£200	£50
10 – 14 points	£100	£25
Below 10 points	£50	£15
If you lose a badge a replacement will be issued upon payment of the appropriate additional permit fee above.		

Table F – COST OF 14 DAY PERMIT

Valid for 14 days only	
Cost per permit	Cost per additional Permit
£25	£15