

Why do we need these guidelines?

The Council recognises the positive contribution that advertising can make to the local economy. This position however needs to be contrasted with the adverse impact that uncontrolled advertising can have on the appearance and safety of our communities.

The Council has underlined its commitment to using its legal powers as Roads and Planning authority as well as an owner and manager of land to ensure that advertising complies with current legislation and that the safety, economic wellbeing and appearance of our communities remain in balance.

The legal position

The advertising of property is regulated by the Roads (Scotland) Act 1984, the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. The Council and other landowners may also exercise further control on land that they own or manage.

The practice adopted by unscrupulous solicitors, estate and letting agents of putting up "For Sale" or "To Let" boards where they should not, or not taking them down, is regarded as 'flyboarding'. It is considered a form of unfair trading and has been the subject of previous investigations and punitive action by the Office of Fair Trading.

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

The erection of advertisements on or within the common parts of multiple-occupancy developments requires the explicit consent of all parties with a legitimate interest.

The 1997 Act states that a person is deemed to be displaying an advertisement if they are:

- ◆ The owner or occupier of the land on which the advertisement is displayed. Or...
- ◆ The advertisement gives publicity to his / her goods, trade, business or
- ◆ other concerns.

The regulations allow for certain advertisements, including agent's boards, to be displayed without needing a specific application. This is "deemed consent". To take advantage of it's provisions, agents must abide by a number of conditions. Where advertisements don't meet all of these conditions, agents need to apply for Advertising Consent to the Council before displaying an advertisement.

Q What is an advertisement?

A An advertisement is a poster, placard, fascia sign, projecting sign, pole sign, canopy sign, models and devices, advance sign and directional sign, estate or letting agents board, captive balloon advertisement (not balloons in flight), flag advertisement, price display, traffic sign and place name sign.

Q When may I display a 'For Sale' or 'To Let' board?

A Agents, solicitors, and those operating on their behalf, must not display any form of estate or letting agency board unless they have been instructed to market the property in question. Agents must only display an estate or letting agency board on their client's own land and with their client's express permission.

Q Where can we display a solicitor's, estate or letting agent's board?

A Boards must be placed completely within the exclusive curtilage of the property that is 'For Sale' or 'To Let'. Boards must not be displayed in communal gardens or landscaped areas, or on or near a public road. Where a board is fixed to a building it must not project more than one metre from the building.

Q What rules do we have to abide by?

A Advertisements must comply with the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Agents must only display boards on land in the exclusive ownership of their client. Agents must accept liability for any actions arising under these regulations in connection with the board unless the action arises because of a further board being put by another person.

Boards must also be displayed on or within the curtilage of the property to which they relate and at the lowest level at which is reasonably practicable to display them. They must be kept clean and tidy, in a safe condition, must not obscure the meaning of official road, rail, waterway or aircraft signs, or cause a hazard and they must be removed when required by either the roads or planning authorities.

The Roads (Scotland) Act 1984 makes it an offence to place anything on a public road without consent of the roads authority. This includes any way over which there is a public right of access and includes the road verges, footpaths, bridges or tunnels over or under which the road passes. It is an offence, under this Act, to paint, inscribe or fix upon the surface of a road or tree, traffic sign, milestone, structure or works a picture, letter, sign or other mark.

Q Are there any restrictions on the number and size of the boards that can be displayed?

A Yes, there must be only one board per property. Boards should not measure more than 0.5 square metres in size, or if two boards are joined together as one, they must not measure more than 0.6 square metres in total.