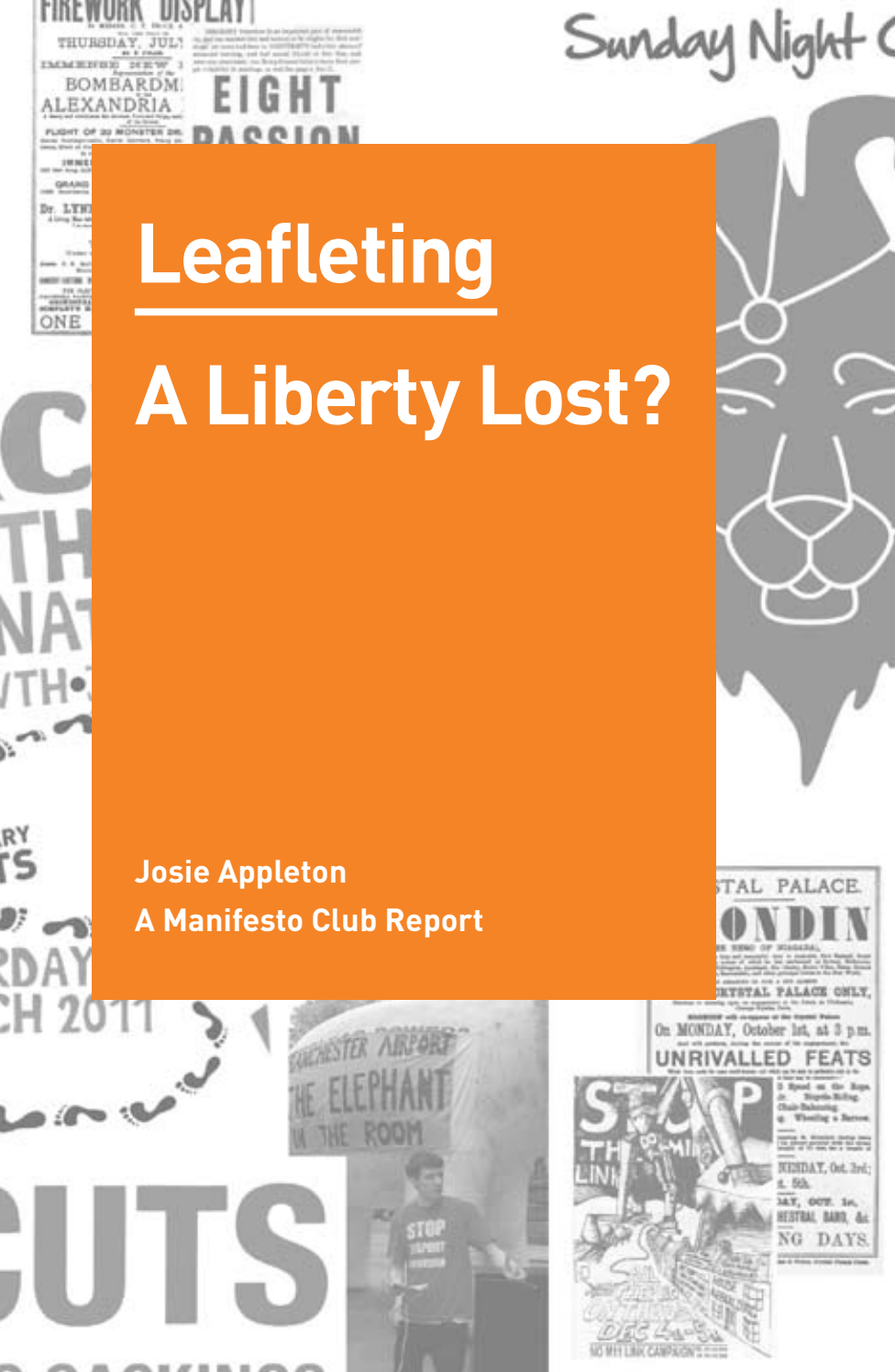


Leafleting A Liberty Lost?

Josie Appleton
A Manifesto Club Report



JOHN MILTON *Areopagitica*, 1644

If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric. There must be licensing of dancers, that no gesture, motion, or deportment be taught our youth, but what by their allowance shall be thought honest ... It will ask more than the work of twenty licensers to examine all the lutes, the violins, and the guitars in every house; they must not be suffered to prattle as they do, but must be licensed what they may say. And who shall silence all the airs and madrigals that whisper softness in chambers?

I love being given flyers
by people. I collect all the
flyers and put them on my
bedroom wall. I'm starting
to put them on my ceiling.
I love them. Please allow
people to give me more.
Please

.....
Mark Baggyshaw, Signatory,
Petition Against Leicester Square Flying Ban
www.londonisfunny.com/petition

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people
Please

.....
Mark Baggyshaw,
Petition Against L
www.londonisfunny.com

COMMUNITY EVENT PROMOTER CHRIS NATURAL, BRIGHTON

“

People gave their lives so that anyone can have the freedom to tell whoever about what they like. This Orwellian leafletting ban may now be targeted towards club events, but how far will its remit be extended in future if it's allowed to come into force now? Who will be the arbiter of what material is deemed 'appropriate' to be licensed? I may have information of something of vital interest to the public. Why should I have to get official approval and an expensive licence?

”

JOHN MILTON *Areopagitica*, 1644

If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric. There must be licensing of dancers, that no gesture, motion, or deportment be taught our youth, but what by their allowance shall be thought honest ... It will ask more than the work of twenty licensers to examine all the lutes, the violins, and the guitars in every house; they must not be suffered to prattle as they do, but must be licensed what they may say. And who shall silence all the airs and madrigals that whisper softness in chambers?

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Preface: The Regulation of Leafletting

‘It is surprising how much can be learned about the past life of towns by reading its handbills and posters’, reflects Frederick C Moffatt, introducing a collection of nineteenth-century memorabilia from two Northumberland towns.¹ The whole spectrum of social life is captured in this collection, including: appeals for ‘a number (not exceeding 50) of steam vessels’; adverts for ‘ladies hats’ and ‘the 20th century cycle lamp’; local events such as a play at the Turk’s Head Inn, ‘followed by a comic song’; petitions, resolutions, election manifestos, calls for meetings with the mayor.

A collection of handbills and posters from today would reveal a lot less. Over the past few years, local authorities across the UK have exerted an increasing control of public leafletting, such that it has become difficult if not impossible in many town and city centres. Long-accepted practices – people handing out handbills in the town centre, ‘sandwich men’ bearing messages or adverts, temporary posters pinned on hoardings or lampposts – have been seriously restricted and almost eclipsed.

Various laws are used for the restriction of leafletting, the most significant of which is the Clean Neighbourhoods and Environment Act 2005, which allows local authorities to designate areas within which people need a license to ‘distribute free literature.’ These licences can be extremely costly indeed, with Basildon charging £350

for a Saturday and Wolverhampton charging £262 per distributor – and so are out of reach for smaller organisations such as arts clubs, fairs and many local businesses. Some 27% of local authorities have restricted leafletting so far, and others are following fast.

This is not about a practical litter problem: leaflets cause no more mess than burger wrappers or crisp packets, which are not subject to a licensing system. It is notable that areas without significant leafletting or litter issues are also bringing in no tolerance rules.

There has been a parallel crackdown on community posters, and the authors of coffee morning and lost cat posters alike have received threatening calls and fines from local authority officers. Councils started cracking down on community posters from the mid-2000s onwards, under the auspices of the 1990 Town and Country Planning Act and the 1980 Highways Act.

The issue seems not to be new legal powers but an official turn against civic posters, which are held responsible for social evils including ‘urban decay’ and ‘fear of crime’. Canterbury City Council says that ‘flyposting ... helps give the impression of urban decay’, and it cites posters by schools, charities and community groups as equally culpable of causing crime and fear of crime. All of these groups will receive on the spot fines on their ‘second offence’ of putting up a poster.

When a school fête advert is seen as contributing to a ‘spiral of crime’, this suggests that everyday social life itself has become latently criminal. The crackdown on leafletting and small-scale posters is driven by an official disapproval of everyday social life, and any spontaneous and unauthorised activities. Home-made posters or flyers are looked upon with disdain and seen as ‘messy’, simply because they are not authorised or run through pre-established advertising channels.

The result is to stifle the events that are put together by people themselves: in many areas it has become virtually impossible to advertise a small local event and win an audience. These laws favour a public space that is dominated by those businesses that can pay the licence fee or rent the hoarding, as well as official messages from councils themselves, which grow in direct proportion to the restriction of the public’s free speech.

The result overall is to suppress local activities and economic life, perversely at a time when the government is concerned to stimulate both the ‘Big Society’ and economic recovery. Nor does the crackdown on posters and leaflets make sense for cash-strapped local authorities: complicated licence systems and no tolerance policing require a significant investment of time and resources. Council officers go to truly extraordinary lengths to punish the authors of ‘give blood’ notices or charity bike ride signposts.

Although the repression of leaflets and posters has been rapid and thorough, there is a growing civic resistance and a new libertarian consciousness among those affected. The owner of a jazz club in Newcastle took the council to court three times, claiming that it was his 'fundamental liberty' to hand out leaflets to members of the public. West End Comedy clubs have launched a protest petition against Westminster Council's flyer-ban in Leicester Square. Brighton club and music promoters are up in arms about the council's leafleting rules, and Leicester Comedy Festival has challenged the costly licence fees that make the fringe event all but impossible.

This report charts the growing regulation of leafleting, showing how a key civil liberty has been called into question in a few short years. It is also in support of these present-day leafleting rebels, and their claim to liberty that stands in a long line of rebellious British men and women.

Section 1: The Regulation of Leafletting

1.1 The Historic Tradition of Leafletting

Leaflets, handbills and posterboards are an inextricable part of British urban and democratic culture. In the 17th century, when printing was licensed and every publication had to be approved by the crown, irreverent pamphleteers hawked their handbills and pamphlets across London, criticising Lord, Church or King. These pamphleteers were seen as ‘untrustworthy, unruly, noisy, deceitful’² and they faced constant harassment from officials from the Stationers’ Company, empowered to enforce the licensing rules.

Yet the pamphleteers were irrepressible and their anonymous criticisms continued, scattering particularly daring publications around London by night so the capital would awake to stacks on pavements or in doors. These sellers and publishers on secret presses were the bearers of nascent democratic culture: it was through these cheaply made little booklets or dispatches that citizens started to speak their minds freely, and there developed an independent sphere of ‘public opinion’ to which people could appeal.

In *Areopagitica*, published in 1644, John Milton argued that licensing laws were a dead hand on the search for understanding, with every creation passing under the licenser’s stamp and pen before it could enter into the world. The criticisms of fellow citizens were a surer test of truth than friars or crown agents, he argued:

‘Truth and understanding are not such wares as to be monopolised and traded in by tickets and statutes and standards.’

The pressure of liberal opinion won the day, and the licensing of printing was finally ended in 1695, a century or more before many continental states.

There was an equally vibrant urban culture of handbill adverts, and areas such as Piccadilly Circus, Oxford Street or Leicester Square would be packed with handbill distributors or sandwich board men, shouting about new exhibitions, new products, lectures on astronomy,³ spectacular demonstrations,⁴ boxing matches,⁵ concerts and everything else that there was to do, see or buy.⁶ A collection of handbills relating to Leicester Square in the nineteenth century includes everything from a demonstration of ‘Negro life in America’, to a ‘Mechanical theatre’ (‘the greatest novelty ever exhibited in London’), to clairvoyants giving their ‘outstanding revelations’ at three and eight o’clock, to an anatomical and ethnological museum (‘gentlemen only’) and adverts for ‘drapery, carpet and furnishing warehouse’.⁷

Whereas street trading was regulated, and required local authority licenses and approval, there was very little regulation of handbills or other ‘free literature’. Some local authorities had a bylaw that prohibited unreasonable leafletting behaviour – which might include somebody blocking pedestrians or behaving aggressively, for example. A standard version of this bylaw is:

No person shall in any street or public place:

- a. advertise or solicit custom for any service; or
- b. seek to gather information for use in the supply of goods or services in such a manner as to cause obstruction or give reasonable grounds for annoyance to any person in that street or public place.

Under this law it was clearly *unreasonable leafletting* that was prohibited, not leafletting across the board. So long as you behaved in a reasonable manner, and did not obstruct or harass people, then you were free to stand wherever you liked and hand out leaflets to anybody who would take them.

Human billboards in
19th century London,
by George Scharf



A few areas of town and city centres were subject to special regulation. Certain towns (such as Bury St Edmunds) prohibit leafletting on market days; others prohibit leafletting within a certain distance of market stalls (such as Chesterfield). No doubt this was to deal with conflicts of interests between market traders and leafleteers, who would potentially distract customers. Other local authorities (e.g. West Lancashire) have restrictions on leafletting in car parks, or specifically council car parks, to stop leaflets being placed under window wipers.

However, the most significant restriction on leafletting was in parks, particularly London parks. Under the Greater London Council many local authorities had a bylaw that read:

No person in any open space:

- a. sell, offer for sale, exhibit for sale or distribute any book, pamphlet, leaflet, card, bill, advertisement or literature of any kind whatsoever.⁸

Different councils have slightly different permutations of this bylaw, for example, the following is from Wandsworth Council:

Handbills advertising a firework display and 'Blondin, The Hero of Niagara' performing various feats on the high wire, both at Crystal Palace, 1800s



'No person shall distribute any bill, placard or other printed or written matter in any park, garden or open space.'⁹

Some local authorities outside London instituted a similar regulation of parks, but this was less common. Chesterfield has a bylaw which states:

'a person must not (in a park or open space), for the purpose of selling, advertising, obtaining custom or importuning, distribute handbills, circulars or advertisements.'¹⁰

The special regulation in London parks was partly a legacy of their Royal ownership – a special status that remains to this day, with their control by the Royal Parks Agency. Parks were also battle grounds between differing elite and working class views on how the space should be used. The elite was concerned to use parks as spaces for leisure and promenading, rather than washing clothes in the fountains, grazing animals, playing musical instruments, or anything else that the working classes might be tempted to get

up to. London bylaws prohibit these activities as well as leafletting and political meetings.

While the working classes' desire to ride horses or wash clothes in ponds subsided, they did demand a right to use the parks for political meetings and demonstrations, and repeated invasions of Hyde Park eventually won the rights to Speaker's Corner. However, the distribution of leaflets or publications remained banned even at Speaker's Corner, so people would gather at the entrance to the park to ply their wares. Political organisers were sometimes targeted, and George Orwell wrote in defence of sellers of *Peace News* and socialist publications arrested for 'obstruction' outside the gates of Hyde Park.¹¹

These regulations of leafletting were significant, but they were also circumscribed: they represented an exemption from the freedom that reigned in all other public places. Aside from these exemptions – such as market days and London parks – for several hundred years, leafletting has been carried out freely in towns and cities. This long-established liberty has been overturned in a few short years.

1.2 Leafletting as Litter

The Cleaner, Safer, Greener Agenda

The 2002 government report, *Living Places – Cleaner, Safer, Greener*, set the scene for the subsequent regulation of leafletting. This policy agenda responded to real problems of urban decline, yet it lacked the idealism of previous plans of urban improvement, and was almost entirely focused on removing various kinds of 'mess' from the urban environment. There was an obsessive focus on litter – whether dog mess or graffiti, chewing gum or leaflets

– as both a *symbol* of urban decline and also the *cause* of spiralling community degradation. This is in keeping with the ‘broken windows’ theory of American social scientists James Q Wilson and George L Kelling, according to which signs of disorder encourage further anti-social behaviour. The theory was very influential among policy-makers in the UK as well as the US in the 1990s, undergirding ‘zero tolerance’ policing.

The problem is that such thinking greatly exaggerates the importance of something like litter in influencing an area’s fortunes; it also sees the more spontaneous or boisterous aspects of social life through the single lens of disorder, so blanking out their positive aspects. With the best will in the world, any social event – a carnival, a Christmas market, a concert – leaves *some* litter behind, and normally litter collection is part of event organisation. Yet suddenly litter became the sum total of any social activity; and consequently, regulating social activities came to be seen as essential in order to control litter and thereby support regeneration.

This ‘clean’ policy agenda was linked to the establishing of Business Improvement Districts (BIDs), and the increasing role of private companies in owning and managing public space. These larger business interests tend to be hostile towards leafletting along with other aspects of the more informal economy. As Anna Minton observes in her book *Ground Control*, many of the newly regenerated public spaces started to approximate a shopping mall, shiny and devoid of character. Minton describes how BID authorities – with names such as ‘CityCo’ – sought to ‘clean up’ or ‘cleanse’ an area of activities or people who they saw as undesirable, whether skateboarders or beggars, street drinkers or political protesters.¹²

Local authorities appointed ‘city cleansing managers’ (Southampton) or set up departments called ‘City Clean’ (Brighton). Sponta-

Nottingham City Council, advertising the leafletting ban in the city centre, 2006

Leaflet distributor’s high visibility jacket

‘Flyer Control Zone’ warning sign, Wakefield Council, 2011



neous public activities of all kinds (political campaigning, busking, pedlars, demonstrating, skateboarding) tended to be frowned upon. The concern became more with the presentation of the area to outsiders, its *'image'*, than with how the streets were used by residents.

So both local authorities and business interests tended to see leafleteers as messy, obstructive, and in need of control and restriction. This view is at the heart of leafletting regulations today. Wyre Forest District Council told us that leaflets 'make the area look untidy and uncared for';¹³ Cornwall justified its restriction of leafletting on the basis that 'we should maintain a smart and professional image at all times'.¹⁴ The 'clean' public spaces sought by these officials are sanitised picture-book places: clean, ultimately, of *people doing things*, in all their variety and unpredictability.

This policy agenda is embodied in the Clean Neighbourhoods and Environment Act (CNEA) 2005.

The Clean Neighbourhoods and Environment Act 2005

Schedule 3A of the CNEA (introduced into the Environmental Protection Act 1990) gives local authorities a number of specific powers:

- The local authority can 'designate land where it is satisfied that the land is being defaced by the discarding of free printed matter';
- It is an offence to distribute leaflets on this land, without obtaining consent of the local authority;
- The local authority can refuse to give consent, or can limit consent, for example with reference to the time and place of distribution, or the material distributed;
- A person distributing leaflets must 'produce on demand' to an official written evidence of their consent;
- Local authorities can charge fees for the issuing of licenses;

- Local authority officers have powers to seize leaflets; and to issue fixed penalty notices to those handing out leaflets without consent.

Of the 245 local authorities who responded to our Freedom of Information request, 65 had introduced some kind of regulation of leafletting – 27% of the total. The majority of these – 45 councils – had implemented, or will shortly be implementing, the CNEA, and had designated an area within which licences must be obtained for leafletting. These zones cover most major cities in England, including London boroughs, Manchester, Birmingham, Newcastle and Sheffield; many towns such as Middlesbrough and Oldham; and regions such as Gloucestershire and East Hertfordshire (see Appendix for full details of local authority regulations).

This law gives local authorities considerable powers. Colchester Borough Council has implemented the CNEA and elected not to grant *any* consent for leafletting, meaning leafletting is completely banned throughout the borough.

Yet it is significant that some local authorities have interpreted the law in an even stricter manner than is justified, showing that there is an impulse to regulate that out-stretches legal provisions furnished by central government.

One important limitation of the CNEA is that it does not apply to leaflets distributed 'for political purposes or for the purposes of a religion or belief', or 'by or on behalf of a charity' – amendments introduced out of concern for freedom of speech. Yet these exemptions are being ignored by many local authorities.

Gloucester City Council told us, 'Leafletting is banned under the Environmental Protection Act 1990'.¹⁵ Three other councils – Cotswolds, Wyre Forest and Charnwood – also said that the Clean

Neighbourhoods and Environment Act 2005 meant that leafleting as a whole was not permitted. Wyre Forest Council says on its website: 'It is illegal to distribute free printed matter under section 94B of the Environmental Protection Act and also the Clean Neighbourhoods Act of 2005.'¹⁶ Cotswolds had interpreted the CNEA to mean that the default position was the banning of all leaflets aside from in designated areas: 'due to the fact that the council hasn't designated any areas of land where the distribution of free literature is permissible, it is an offence for any person to do so in the district.'¹⁷

Several local authorities also applied the regulation of leafleting to political, religious and charity groups. Swindon Town Centre Management wrote to Marilyn Harrison of Swindon Animal Concern, telling her that her leafleting was now illegal.¹⁸ Meanwhile, Rugby Council applies the CNEA to charities as well as commercial leafleteers.

The application of the Clean Neighbourhoods and Environment Act 2005

There is no doubt that the 2005 Act has led to a dramatic reduction in leafleting wherever it has been introduced. Many town and city centres where leafleteers were part of the street scene have become, to all intents and purposes, leaflet-free zones. 'Nobody leaflets in Newcastle any more,' reflects Keith Crombie, who runs a Newcastle jazz club and had promoted his club for decades through hand-to-hand leafleting.

Many local authorities have only a handful of leafleting licence holders – 50 is an average figure for a large town. Oldham has seven licence holders, and Rushmoor has 19 (but most are out of date) – and a few councils (North West Leicestershire, Haringey) have no 'current licence holders', meaning there is nobody in the borough authorised to hand out leaflets about local events.

This represents a significant fall from previous leafleting activity. In 2006, a week-long survey by Sheffield City Council discovered 90 different individuals were giving out leaflets for 19 organisations.¹⁹ Now, for the few larger local authorities (such as Birmingham and Manchester) that have more than 90 leafleting licence holders, many of these licences are for one-off or once-monthly leafleting. It would be very rare to have 90 individuals leafleting in the course of a week.

The CNEA gives local authorities powers to set a licence fee, to 'cover the costs of administering the scheme'. This means licence fees aren't used for litter collection, but for maintenance of the licence system – including administration costs (processing applications, distributing badges, etc) and also officers to check that leafleteers all have licences.

Licence fees can be extremely expensive, which effectively reduces promotion of events in the city centre to large companies, squeezing out smaller businesses or organisations. Many areas have time limits on the licence, with leafleting permissions given for the day or for evening (in Brighton, evening licences are known as 'premium' and daytime as 'standard'). Public space is being rented out by the yard and the hour, and so ceases to be public in any meaningful sense. In Basildon, a licence costs £150 for one day (£350 for a Saturday or Sunday), and £800 for one week. Oldham charges £50 for one day, and Brent charges £55 for a day, while Wolverhampton charges £262 per distributor.

Certain boroughs – such as Hammersmith and Fulham, or Kensington and Chelsea – divide the region up into a number of separate zones, each of which requires a separate licence. Hammersmith and Fulham, for example, charges £250 per year for each of its eight zones, which would mean £2000 to leaflet freely throughout the borough.

In Leicester the leafleting license application fee is £103, on top of which an organisation must pay £26 per distributor per day. The Leicester Comedy Festival has 200 acts, which would mean an unaffordable £5200 per day, just to cover the costs of the badges. If an organisation wants to distribute leaflets across the whole year, there is an annual fee of £1015 – plus the £26 fee per distributor.²⁰ As a result, any music or theatre venue in Leicester – aside from most established kinds – are simply unable to hand out leaflets to local residents. A theatre with 10 members of staff would be hit with a bill of £1378, for the privilege of standing on a public street and handing out programmes to passers-by (see Appendix for full details of licence costs).

The process of licence application can be very arduous, involving lengthy forms that must be submitted a long way in advance. This eliminates all spontaneity from public leafleting: you can't just make some leaflets to advertise your play, grab a couple of friends, and head out because it is a nice day. Instead you have to apply around two weeks in advance, gain a licence for each 'distributor', specify the nature of the leaflets, even say where you will be standing.

Some local authorities – including Manchester, Doncaster and Derby – employ complicated points systems for establishing the costs of licences, depending on the organisation you are promoting and the hours or position of your leafleting. These points systems could swallow up hours of people's time, as well as draining them of any desire to partake in the activity in question.

These systems also give councils a high degree of control over and intrusion into leafleting activity. Several local authorities (including Ashford) require distributors' ages, address and date of birth, and others ask for their national insurance number, passport photo

tos or previous criminal convictions. Many require you to submit in advance the material you are planning to hand out.

These stringent regulations apply whether leafleteers are being paid or not. That is, the same regulation applies to a group of friends who are advertising their concert or play (for which they are not being paid) as to leaflet distributors employed by distribution companies.

Many local authorities insist distributors wear badges, which drums home how they are only allowed to be there with official permission. Newcastle City Council insists leafleteers wear a yellow badge in a 'highly visible' way, 'bearing the number of the authorisation badge and showing the name and contact telephone number of the consent holder'. These badges can be expensive too – Kirklees charges £100 for each additional and replacement badge.

This system is enforced with stiff penalties for the new crime of 'unauthorised leafleting'. Hammersmith and Fulham gave out 125 fixed penalty notices in 2009–10, while Leeds gave out 120; even a relatively small town like Colchester gave out 60 penalties. At £75 each, Hammersmith and Fulham's takings would amount to nearly £10,000 a year. Such penalty notices are issued in a largely unregulated manner, since the council officer acts as judge and jury and the punishment is not tested in a court of law.

The leafleting licensing system also gives local authorities unprecedented control over the content of literature being distributed locally. Each licence comes with 'consent conditions', which can include specifying which kinds of leaflets are permitted or where they may be handed out. Leicester City Council, for example, says it has a presumption against granting leafleting licences to 'entertainment venues' – a broad category of public activity – and any-

body applying to leaflet for an ‘entertainment venue’ must justify why they should be given special dispensation. The council has a relatively free hand to define acceptable and unacceptable promotions, irrespective of the wishes of local residents.

Some licence conditions include specifications that the leaflets should not be ‘offensive’ in any way. This can be a broad restriction, as a nightclub owner from Newquay found out when his leaflet advertising a clubnight called ‘House of the Lord’ came under fire from Christian groups (that the nightclub owner was himself a Christian seemed not to affect matters).²¹ Many local authorities (including Newcastle and Oxford) prohibit ‘irresponsible drinks promotions’, which seems to include pretty much all drinks offers; and additionally require the leaflet to carry the ‘Drinkaware’ logo and message. Both Hillingdon and Hammersmith & Fulham associate happy hour promotions with criminal behaviour:

‘No consent will be given for the distribution of the following types of literature: Racist, sexist or offensive material or literature encouraging criminal behaviour. Literature that promotes the irresponsible use of alcohol (including “happy-hour” advertisements and “money-off” offers). It is expected that all literature promoting alcohol shall display a responsible drinking strap line.’²²

Although in theory political and religious organisations are exempt from the CNEA, some councils require such groups to apply in order to *justify their exemption*. In East Hertfordshire, for example, political organisations wanting to leaflet must still apply for consent from the council, and go through the same procedures as non-political leaflets – only they are exempt from the fee. The council states: ‘we encourage all organisations to apply for consent so we can confirm their exemption status, issue a free consent

House of the Lord club night flyer that caused offence to Christian Groups, 2009

Banner marking the Leicester Comedy Festival



and monitor who is legally distributing in the town centres.’²³ So although they do not pay the costs of the licence, they are nonetheless subject to the same restraints, such as applying 10 days beforehand, saying when and where they will hand out leaflets, and a limitation on leafleting after 6pm.

So in summary: the leafleting licence system has spread rapidly across local authorities since 2005. Today there are leafleting zones in most major cities, within which leafleting is licensed and subject to extensive local authority control. These rules have led to the plummeting of spontaneous public leafleting, and made leaflet-

ing all but impossible for smaller organisations. Even where small groups are allowed to leaflet, they face curbs on when and where they can do so, as well as on the content of their leaflets.

Perversely, leafleting – the simple passing of paper between two citizens, where no money changes hands – has become subject to more stringent controls than are applied to many street sellers. Most importantly, what has been lost is the notion that leafleting is a *public freedom*, which should be the right of any citizen at their choosing, rather than an activity which is carried out only with the sanction and under the control of public authority. The law has shifted from punishing people who are behaving in an unreasonable or obstructive manner, to regulating everybody.

‘Leafleting Diaries’ and Other Forms of Regulation

The regulation of leafleting is not only the result of the Clean Neighbourhoods and Environment Act, but also of a more general desire to regulate – which is suggested by the fact that some local authorities have invented their own pseudo-legal forms of leafleting regulation.

Several councils appear to have simply banned leafleting, without giving any legal justification or basis. Hull simply says, ‘we operate a “no leafleting” policy’. Stevenage Borough Council made an extraordinary statement:

‘The council has a policy that states leafleting in the town centre is not permitted because it causes a littering problem. As land owners of the pedestrian walkways in the town centre, Stevenage Borough Council exercise landlord powers of self-help to enforce this policy.’²⁴

Here we see a council starting to behave like a private landlord, and set conditions for public spaces as they see fit. Local authority

land is treated as the private property of council officials, rather than a public space managed by elected representatives. This shows local authorities adopting autonomous regulatory and policing powers: rather than pass a bylaw (which has to be signed off by central government and enforced by a magistrate’s court, with all the ensuing checks and balances) they simply declare a ‘policy’.

A ‘policy’ is enforced as a compulsory condition, but without a legal basis. Cornwall, for example, says that it has no legal regulation of leafleting, only ‘guidance’:

‘The guidance states that the only marketing material we should have in our own public areas is products produced by ourselves or our partners. When appropriate we may support local charities, fund raising days etc but staff should be mindful that we do not have an array of leaflets scattered everywhere – and that we should maintain a smart and professional image at all times. We do not accept marketing material from outside bodies or organisations.’²⁵

To all intents and purposes, leaflets aside from those produced by the council and its partners are banned from public space in Cornwall. This shows how informal regulation can be even more coercive than regulation brought through on the legal basis of the CNEA, which at least contains certain exemptions.

Hyndburn Borough Council has imposed a series of conditions on activities in the main streets in Accrington, stating: ‘No person or organisation shall use [these streets] for any activity whatsoever without prior consent from the Council’. It appears that no permission would be granted for leafleting, whether commercial or political: ‘Any commercial, retailing or canvassing activities will not be considered’.²⁶ This effectively reserves these streets for shop-

ping and light entertainment. Some local councils have introduced bylaws restricting leafleting. Southampton City Council told us: 'We have a bylaw which prohibits the distribution of leaflets and promotional items in any street or market place.' The only exemptions to the bylaw are 'political party leaflets at election time and religious leaflets'.²⁷

Liverpool City Council has stated that 'It is illegal to hand leaflets out throughout Liverpool'²⁸ – and indeed, we have received several reports from local groups prevented from leafleting in the city. And yet there is no legal basis for this claim. The council actually has a bylaw which prohibits touting or leafleting '*to the annoyance or obstruction of passengers*', which is a standard form of a traditional local bylaw. If no annoyance or obstruction is caused, leafleting should not be restricted.

Local authorities in London already had special powers to designate leafleting zones under the London Local Authorities Act (LLAA) 1994, which is a milder version of the CNEA.²⁹ The London borough of Brent has enacted a leafleting licence system under the LLAA: it charges licence fees of £55 per day, and the council has powers to seize leaflets or issue penalties of up to £500.³⁰ This again shows the special degree of legal regulation that is applied in the capital. The Royal Borough of Kensington and Chelsea had also designated a leafleting area under the London Local Authorities Act, which it converted when the Clean Neighbourhoods and Environment Act was introduced in 2005.³¹

Chesterfield runs an informal leafleting scheme, and dates must be booked and a fee (£10–30) paid in advance. Several councils have 'diary' policies, requiring that leafleteers register with them beforehand. Crawley and Wellingborough use 'town centre diaries', and all religious or political groups and commercial organisations must

book their slot. In Crawley, for example, the council limits leafleting to two organisations a day, and each organisation must only have two leafleteers. Hackney and Canterbury councils ask to be informed when people want to leaflet. Rugby Council says that it doesn't charge religious groups, but does request that they contact council authorities to 'discuss availability' and book a slot.

These 'diary' policies also enforce the notion that leafleting can only occur with official permission, under certain defined conditions, such as with a certain number of leafleteers or at an allotted time or place.

Other councils have used health and safety regulations to restrict public leafleting that is part of a public stall. Councils including Woking and Swindon require risk assessments of all stalls, along with the measures taken to ameliorate this risk. Swindon requires that a risk assessment be filled in every month; while Woking also requires public liability insurance and a photo of the stall and any literature.³²

Finally, Westminster Council invoked licensing conditions in order to ban leafleting in Leicester Square, which particularly affected West End comedy clubs and theatres. Many of the licensed premises had licensing conditions stating that they could not 'solicit custom' in the vicinity. This condition had existed since 1998, but had never been enforced. The condition read:

'No soliciting for custom, including the distribution of leaflets, shall take place from the premises, immediately outside the premises or in the vicinity of the premises.'

The decision to enforce was taken early in 2010, and pubs and clubs were sent letters and visited by council officials. Andy Ralph,

Westminster Council's licensing manager was definitive: 'no business or organisation should give out leaflets in Leicester Square'.

Interestingly, it appears that Westminster Council wanted to restrict leafletting in Leicester Square, and then searched for a means to do this. The council is looking for other legislative routes to tackle those premises which do not have this restriction as part of their licence conditions:

'For the premises that do not have the condition on their licence we are looking at the obstruction of the highway under sec.137 of the Highways Act 1980 and under ByeLaws for Good Rule and Government. We are also considering whether action is possible under the Licensing Act 2003.'³³

The forthcoming City of Westminster Act will provide another 'tool' to restrict leafletting, giving the council powers to designate areas within which any form of 'touting' or promotion would be banned.³⁴

This suggests that the 2005 Clean Neighbourhoods and Environment Act is only part of the story. The restriction of leafletting is not the result of this law alone, but an end searching for a means.

Regulation of Leafletting by Other Bodies

Other institutions that are responsible for public space have also restricted leafletting – most notably, the private companies which administer or own parts of public space. We have received several reports of Liverpool One – the company responsible for parts of Liverpool city centre – stopping people from leafletting. In one case, activists on an anti-BNP demonstration were prevented from leafletting by a Liverpool One representative.³⁵ Similar restrictions affect several public places in London – for example Trafalgar

Square or More London (the area around City Hall) – which are also run by private companies which prohibit leafletting as a matter of course.

Several university campuses have also prohibited leafletting, which shows that non-commercial bodies can be just as restrictive. Sheffield Hallam campus banned leafletting and flyering: when students occupied the university in solidarity with the people of the Gaza Strip in 2009, part of their demand was for 'the ban on flyering and posters on campus to be lifted immediately allowing students to organise and allow free speech.'³⁶

The University of York also banned flyering on campus, and ruled that any local companies should use the university's leaflet distribution service. When the ban was broken by Efes, a local pizza place with a cult student following, university authorities banned the company from delivering pizzas on campus. The university told Mr Efe that 'the University of York will take steps to remove you from our premises as you are illegally trespassing'; and told students:

'You should not order meals to be delivered here (the university) by Efes, they are not allowed on campus If you want to order a pizza, there are leaflets in Derwent Reception denoting who is eligible to deliver on campus.'³⁷

When a university has a list of 'eligible' pizza distributors, we know that freedom on campus has reached an historic low.

Finally, the University of Manchester has a de facto leafletting ban on campus, and in an extraordinary statement the university's director of residential services told students that they shouldn't become involved in flyering or poster at all. He advised:

- Don't take flyers from people in the street ... ;
- If you become aware of someone distributing flyers in your residence ring University Security on 0161 306 9966 to have them removed;
- Don't take a job distributing flyers within your halls of residence and if you see people doing this call security;
- Don't use flyers and flyposting to advertise your or your societies' events. It's a waste of money and will mean your money will end up in the bin.

He said flyering would create fear of crime, environmental damage, as well as degrading the university and the city. He also indicated that flyering and postering are illegal, and that students could be fined up to £2500 per poster.³⁸

This shows how even a nominally liberal space – a university campus – has become affected by no tolerance leafletting rules. This makes it very difficult for local events and businesses to reach students, as well as for university societies to organise their own events.

How Leafletting Regulation Stifles Community Life

These leafletting regulations have presented different problems for different social groups.

Nightclubs, Music, Comedy

The grassroots arts scene is arguably the worst affected, since it falls squarely under the jurisdiction of the Clean Neighbourhoods and Environment Act and therefore has to pay the full leafletting licence fee, yet is informally organised with small turnovers.

The grassroots arts rely upon leafletting to win an audience. Established acts have their name in brochures, an established audience

Comic strip depicting the Court trials of Newcastle Jazz Cafe owner, Keith Crombie, by John Watling



and a PR company in their employ; but up-and-coming acts start in a room above a club or pub and win an audience hand-to-hand through leaflets. Every fringe festival – Edinburgh, Brighton, Leicester Comedy Festival – is defined by crowds of people pitching and leafleting. David Mulholland, comedian and promoter for Soho Comedy Club, says:

'Flyering is a life and death issue for small clubs that are just starting up... [T]he birthplace of alternative comedy in the UK, the Comedy Store, started above a strip club in 1979 and relied heavily on flyerers to attract audiences until 1993. If flyering had been prohibited in 1979 there would be no alternative comedy scene in the UK.'³⁹

Flyering is particularly important in the West End, where many people just pitch up to 'see what's on', but it is essential for other clubs too. Justin Brett, a comedy promoter for a venue in Putney, said:

'If we were hit by a flyering ban, we wouldn't last more than a few weeks before having to throw in the towel. Comedy clubs are in the main small, cottage industries run by people that love comedy and care about getting out to the masses. Comedy won't reach the masses if we can't tell them it's on.'⁴⁰

When flyering is restricted, audiences are not only smaller, they are more predictable, with members of the 'comedy family' rather than wild cards of random members of the public. Comedian Lizzie Daykin commented:

'I perform and also run a new night at the Comedy Pub, just off Leicester Square. Before the ban, the night would be

packed out. Now we're having to pull gigs because it's simply too difficult to get an audience in that aren't members of our family.'⁴¹

The music scene is similarly reliant on flyering. A club promoter in Brighton estimates that a clubnight that would draw 700 people with flyers, would draw only 200 without. Another nightclub promoter says that the council's flyering licence fee swallows up the margins for a smaller night:

'[The fee] is fine if you're a corporate megaclub, but this could be a night's takings for anyone doing something alternative, off beat, original, or in the least bit interesting. It's a shame, as handing out flyers is one of the most effective ways of promoting a clubnight. You can target your audience right down to specific individuals. Smile, chat, charm, plead, job done, club rocking.'⁴²

New bands have always made their way by persuading or bribing their friends to hand out flyers. Keane pianist Tim Rice-Oxley recently recalled how, when he and Chris Martin were both Classics students at University College London, the Coldplay singer frequently gave him a stack of leaflets to hand out.⁴³

The Jazz Café in Newcastle lived and thrived by flyering, and Keith Crombie would hand out his hand-written flyers to students at Northumbria University, winning over each new cohort and becoming a local legend. Former students set up a Facebook group, Jazzman Appreciation Society:

A group to honour the great Keith Crombie who is outside the Uni every day, whatever the weather, to shove his wonderfully handwritten flyers into our hands.⁴⁴

Smaller acts are also those who cannot afford to throw away leaflets, and are more careful about handing them out. Soho Comedy Club says that its leafleteers always talk to people before they give them a leaflet, and they get 40% return if they talk, compared to less than 1% if they just hand them out indiscriminately. The director of Leicester Comedy Festival says that from 100 well-placed flyers, they get an average 20–30 people.

Since the Leicester Square flyer ban came in, at least three West End comedy nights have collapsed. Mulholland measures the effect of the ban on his own club, saying that a regular audience of 75 was often reduced to 25. These grassroots nights are key to the vibrancy of the UK comedy scene; up-and-coming comedians can play five or six nights a week in these small venues, whereas in other cities they might be lucky to get one gig a week.

The nightclub scene in Brighton was defined by a diversity of small and experimental nights, which was open to newcomers who could pitch up and set up their own night. Will Power, a promoter in Brighton, told me that ‘these rules mainly affect small promoters; they create a monopoly situation for the big clubs’. Power says that the leafletting ban has reduced the number of experimental nights and precipitated a major drop in the club-goers who seek out the Brighton scene.⁴⁵

Bigger acts are not directly affected, since if they use leafletting they will tend to subcontract to a specialised distribution company to negotiate bureaucracy and pay the fees. Alex Rochford, producer for the Brighton Comedy Festival, says ‘leafletting rules don’t affect guys at my level – such as Mark Watson – since they have press and marketing. It’s someone at a lower level, who in the old days could drum up an audience with flyers.’⁴⁶ A comedian told me that

Brighton’s flyering rules have killed the Comedy Festival fringe: ‘It’s too hard to flyer now, and it’s £2000 to get in the brochure, so the festival becomes restricted to the big acts.’⁴⁷

When council officials dismissively describe leafletting as ‘cheap’, they are right: it is a cheap method of promotion which means that small and up-and-coming acts can use it to win an audience. Leafletting allows anyone to set up a night and start out, and this openness is essential to any kind of spontaneous or experimental arts scene.

An Oxford comedy promoter and student says that the council is inventing leafletting as a ‘problem’:

‘Leafletting is just not a problem in Oxford. This scheme is just a pointless way for the Council to continue to show how tough they are on anti-social behaviour, which is pointless given that the only people leafletting are a small number of mostly amateur companies. Oxford Council Environmental Health has no sympathy for the arts community which they are inclined to see as a social problem rather than an important part of our local cultural and economic make-up.’⁴⁸

The big comedy acts, although not directly affected, are also harmed by the loss of grassroots clubs. ‘If you cut off the grassroots, the tops will die’, Mulholland tells me. After all, these big acts all started out here, in the room above the pub, and they return from time to time to perform in these tiny West End rooms. Mulholland recalls how Steven K Amos had wanted to try out new material at Soho Comedy Club, for a TV show he was recording the next day, but had to cancel because the flyering ban had reduced the audience.⁴⁹

In a perverse twist, The Bocket Arms in Hertfordshire is *required* by its licence conditions to leaflet about upcoming music events – only this is not to promote the event but to ‘warn them of upcoming gigs’ and ‘provide a telephone number for noise complaints’.⁵⁰

Travelling Circuses

Travelling circuses are another sector that has been particularly affected, since they must win a new audience in each new town. Kenny Junior, from Paulo’s Circus Americano, said that the Newquay flyering ban had a catastrophic effect on their business: they used to publicise the circus by giving out discount tickets to families in the city centre, most of whom are holiday makers. These tickets rarely ended up as litter since the circus talked to people first and checked they wanted them.

Circuses face different rules in the different local authorities they visit, and indeed these rules change year to year. Sometimes a circus manages to win concessions to flyer in a particular area of town, but only after hours of negotiating with council officials, and these rights could then be taken away the following year. ‘In the end we had to apply for a licence in Newquay’, said Kenny Junior, ‘but as well as the fee, it took nearly 10 days to get hold of the right guy, so it was a lot of work.’⁵¹

Local Social Events

There is a whole swathe of local social events – art exhibitions or dinners, talks and lectures, fairs or fêtes – that are also adversely affected by these regulations. Many of these events are not-for-profit, and only charge to cover costs, yet because they are not registered charities would not fall for exception under the CNEA. (Ironically, many of these groups are smaller and less well off than registered charities, and no less valuable to civic life.)

In February 2010 the Sawbridgeworth Women’s Institute was threatened with an £80 fine for handing out flyers for an arts exhibition. The group’s head, Liz Day, said that ‘we hold it every year, and the money largely goes to charity – to the Hertfordshire ambulance fund or an old people’s home. We leafleted for it for three years in a row – then last year we were accosted by a council employee, who was very officious, and said that he only let us off the fine because he was in a “good mood”’.⁵²

The planned leafleting zone in Oxford affects all university societies that are not charitable, political or religious, which would encompass college socials as well as music or theatre societies. An Oxford City council official told me: ‘If a student society was having a drinks night, that would be affected and they would need to buy a licence’.⁵³ As a result, there is an absurd distinction between those student societies allowed to leaflet, and those that must buy a licence. The Conservative Society could leaflet students emerging from a lecture or a Union event, but the Law Society (and arguably the Union itself) could not.

The effect on Freshers’ week – where leaflets and invitations are pushed into newcomers’ hands and student societies and local clubs vie for their custom – is profound. One of the Oxford leafleting zones will be in Headington, outside Oxford Brookes campus, and is specifically targeted at Freshers’ week. Other local authorities have established leafleting zones on university campuses, including Hillingdon Council which has a leafleting zone encircling Brunel University.⁵⁴

Churches, Charities and Political Groups

These groups should not be affected by the CNEA at all, since they are clearly exempted. Nevertheless, as we have seen above, some local authorities are also restricting leafleting by these groups.

Obviously churches and political groups are affected by any blanket bylaws that prohibit leafleting. Some churches in Liverpool report that they are now unable to give out concert flyers,⁵⁵ while all political groups would fall under Southampton's bylaw ban.

Some political groups have been stopped from leafleting and wrongly told that they fall under the CNEA. Other councils have taken an unduly strict interpretation of the meaning of 'political' in the Act, taking it to mean party political and therefore excluding other political campaign groups.

Anti-scientology campaigners in Birmingham, and in Bromley South in London, were both told that leafleting is banned. One of the campaigners in Bromley South, emailed me an account of what happened:

'About 5-6 of us went down to Bromley South [in October 2010], because Scientologists were trying to recruit people via "stress tests". The Scientologists called the council, and the council told us we needed a licence to hand out fliers. We were also told megaphones also required permission. One of the guys did a follow up, and the council were still saying we needed a licence because we're not a political party, church or charity. We were further told even if people come up to us and ask for a leaflet they'd still enforce the need to have a licence.'⁵⁶

UK Uncut faced similar restrictions when they leafleted Royal Bank of Scotland staff in Bournemouth, and were told that they were 'breaking the law for handing out leaflets'.⁵⁷ Political protesters in Leeds, protesting against planned changes to the Corn Exchange, were approached by police and fined for distributing 'free

printed matter' without a licence. When the protesters challenged the fine they received the response:

'whilst we appreciate your argument regarding what is and what isn't a political purpose, we have taken this to mean a registered political party and our legal division is fully prepared to challenge your defence. By allowing any other meaning of a political purpose, it would open the door to all manner of events and promotions where the person can simply suggest that it was in their opinion, "political".'⁵⁸

CND and anti-war protesters reported hassling from council officials on Brixton Road, from 2005 onwards. One activist leafleting for a 'Troops Home from Iraq' demo was approached by employees of 'Lambeth Street Care' who questioned his right to be there without 'permission'. The activist wrote to the Lambeth authorities and received the following reply, which not only disregards the CNEA's exemption for political leafleting, but wrongly implies areas have to be designated for leafleting rather than for restrictions on leafleting:

'NOBODY is allowed to distribute free literature or set up ANY receptacles on Brixton Road, because that stretch of road is NOT a designated area for that sort of activity, by ANYBODY, regardless of the content of the message... . There is a designated place designated by Lambeth Council in Brixton, Dorrell Place or Tunstall Road (weekdays) on Brixton Road for anybody regardless of the contents of their message...'⁵⁹

Churches have faced a similar challenge, and evangelists in cities including Newcastle and Carlisle have been stopped by police or council officials and asked to stop leafleting. These challenges

moved the Christian Institute to in 2007 produce an information leaflet on ‘giving out free Christian literature in public places’, which informed evangelists of their rights to exemption under the CNEA.

Yet these troubles are continuing for religious groups, and earlier this year Stephen Green, the director of Christian Voice, was handing out leaflets protesting against Wembley Stadium’s ‘secret’ serving of halal meat to football supporters. After an hour of handing out 1000 leaflets to fans, Green reports:

‘a tall male individual purporting to be a Brent Council official, who was accompanied by a police officer, told us to stop leafleting and took the leaflets we had in our hands. He said we needed a license to give out literature and that on a match day we wouldn’t get one.’⁶⁰

In other cases, political or religious campaigners fall foul of a simple officiousness. Climate change protesters handing out leaflets (while dressed as penguins) in a park in Shropshire were ordered to leave the park by council officials.⁶¹ A council spokesperson said that the council should have been informed, and the protesters needed to be ‘risk assessed’ before they could hand out leaflets to members of the public:

‘We did not know who they were or what they were doing. Organisations and individuals should always plan ahead and get permission from the council before doing anything in the town park...’⁶²

Here we see a challenge that doesn’t have a specific legal basis, but is based instead on the council’s claim on principle that it should authorise all significant activities in public spaces. The presumption is that unauthorised activities are banned unless they have

prior approval – a direct reversal of the basic assumption in a free society.

Yet in spite of these restrictions, political and religious groups have important rights of exemption under the 2005 law, and so have been able to successfully challenge the application of these powers. The Birmingham anti-Scientology group, for example, won the retraction of their fixed penalty notice and apology from the council.⁶³ UK Uncut subsequently defended their rights under the CNEA, as did many of the church groups who were stopped.

Local Business

Local business is another key sector affected, since the rules cover sales adverts, new shops or bars, train or bus companies giving away timetables, and everything in between. The more established businesses can afford the licence fee, and probably will already have subcontracted distribution, but smaller businesses cannot.

A gift store in Colchester wanted to hand out helium balloons and leaflets, to try to boost falling sales, but was prevented by the council’s no tolerance rule on leafleting (Colchester Borough Council has enacted the CNEA, but refuses to grant licences under it). Owner Carol Jones pointed out that her shop was a bit out of the way, and that leaflets provided a way of attracting custom off the main drag, and concluded: ‘The council would rather see clean streets and council jobs than flourishing shops.’⁶⁴ Bars in Newquay make a similar complaint about the council’s no tolerance rules. Tony Townsend of Bertie’s Nightclub said:

‘We are not in the town centre and we need to promote ourselves. It is only for four weeks in the year this really affects the town. This ban will just cause large numbers of people

to congregate in the town centre. This is a holiday resort and people want to know what is on.’⁶⁵

Again this affects the small businesses, run by independent proprietors, rather than chains or multinationals.

The Commercialisation of Leafletting

In most cases, these rules don’t stop leafletting entirely, but they tend to empty it of its spontaneous and grassroots quality, and make it into a much more official and commercialised affair.

Local authority regulations mean a regimentation of leafletting activity, which can only be carried out after filling in forms, paying fees, and naming ‘distributors’ several weeks in advance. Leafletting is emptied of its independence and spontaneity – one citizen pitching or appealing to another – and becomes a stiff and officially mediated activity. Pitching your play to fellow residents becomes an experience more like paying tax.

The leafletting licence acts as ‘a consent’ and you become a ‘consent holder’, which comes with ‘conditions’ attached; you must wear a badge with your name, licence number, address, and the date of expiration of the licence. This is effectively an ID badge: the person pitching their circus show or theatre performance looks like a security guard.

The presumption is that people handing out leaflets have to show they are supposed to be there; that they have permission. Some leaflet distributors have taken to wearing day-glo clothing with ‘official flyer distributor’ written on it, to ward off challenge.

Perversely, these rules also lead to the commercialisation of leaflet distribution and the growth of leaflet distribution companies – since distribution companies help organisations get around the

legal hassle, and they employ full time flyerers so get good value for the licence fee.

One club promoter in Brighton says he is contracted by local businesses such as hairdressers to hand out flyers for them: ‘They would have just done it themselves, but because of the rules they have to sub-contract’. Alex Rochford, producer for Brighton Comedy Festival, outlines the same trend:

‘because you can’t go out and flyer yourself, you need to employ a distribution company. When you are doing tours around the country, each council has its rules and regulations, so leafletting becomes more commercial, you hire a company and they do it. Something that used to be done on a small scale has become a big monetised scheme’.⁶⁶

This is obviously a perverse effect of these rules, since leafletting distribution companies would be less discriminate about handing out leaflets than those running an event. Hired leafleteers merely have to get rid of their 2000 flyers, and may not especially care if a person is interested or not. Somebody promoting their own event will be more passionate about the cause they are promoting and more likely to talk to people before giving them a flyer.

This trend also removes leafletting of some of its meaning, since it is no longer somebody trying to persuade you to come to their pizza place or art gallery, but somebody who is paid to get the piece of paper into your hand. Having spoken to a number of hired leafleteers in London leafletting zones, they often do not even know what it is they are handing out.

A few years ago, if you were promoting an event in London you would send out volunteers around venues or pubs to ask if they could leave leaflets. Now many venues are refusing flyers unless

they come through a specialist distribution company such as London Calling.

In some cases, bigger commercial interests are behind the suppression of flyering. Most notably, it was the Heart of London Business Alliance that encouraged the crackdown on flyering in Leicester Square. As Westminster Council explained:

‘Westminster City Council was approached by the Heart of London Business Improvement District who raised concerns about the number of street touts and flyers that were in and around the Leicester Square area and many of the local business had been complaining about the touts and flyering in the area. Residents and the Heart of London Business Alliance are keen to open a visitor centre in Piccadilly or Leicester Square and the touting and flyering served as a very real hurdle to its success.’⁶⁷

Here, flyering for small comedy clubs is seen as a ‘hurdle’ to an official ‘visitor centre’, which would no doubt feature more established operations. Spontaneous cultural life is suppressed in favour of larger-scale culture, organised by an alliance of interest between business bodies and local councils.

Finally, the restriction of public leafletting has paralleled a significant growth in commercialised leafletting of people’s homes, an area that is not covered by leafletting regulation. Flyer distribution companies divide up towns and neighbourhoods by their ‘market demographics’, and will distribute large numbers of flyers very cheaply.⁶⁸

So while leafletting in public space in Brighton is tightly regulated, ‘spam’ flyering of people’s homes is occurring on a massive scale, with companies posting several leaflets through doors at a time.

Yet this practice is much more annoying for people when done in excess, since they have no choice about whether to accept the leaflet or not.

Rebellion Against Leafletting Regulations

Several groups affected have started petitions or protests against the rules. Music promoters in Brighton launched a petition against the flyering zone and licence fees, which they said ‘will stop many small and new promoters from being able to run nights and will therefore affect the vibrancy and club culture everyone has come to love in Brighton.’⁶⁹

Comedy clubs in the West End launched a petition against the flyering ban in Leicester Square, arguing that:

‘A flyering ban is bad for everyone. Tourists lose out because no one is allowed to tell them what is on offer. Businesses lose out because people can’t find what they want in Leicester Square and go elsewhere, making the area less of a destination. And comedians lose out because there are fewer gigs at which to hone their craft because comedy shows are going out of business.’⁷⁰

The only legal challenge so far has come from Keith Crombie in Newcastle, who (with the aid of a barrister friend) took the council to his magistrates court three times, claiming that the leafletting regulations infringed his fundamental rights to free speech.

None of these groups has so far managed to turn around their council’s policy. Westminster Council slackened its policing of the no-flyering rule over August 2010, but not out of concern for the comedy clubs but because it couldn’t pay overtime for council officials to police the area. Keith Crombie lost his court cases and

has been forced to buy a leafletting licence – although he refuses to wear the badge.

Some groups have been more successful at gaining partial exemption under the rules. Paulo's Circus Americano managed to get a certain area of Newquay where they could give out leaflets, but this permission was revoked the following year.⁷¹ Leicester Comedy Festival won exemption from the leafletting fees one year, but this only covered visiting acts and not local acts. The year after, the council said they would let them off the fees, but that they would still have to pay £25 for each badge; then, at the very last minute, the council granted further concessions. This negotiation – asking for exemption as a special privilege – has to be gone through every year, with a slightly different deal ensuing, but in all cases the organisation has no rights and is dependent on the leniency of council officers.

These conflicts show that there is public appetite and need to take on these regulations, but that individual cases are weak if made on their own, without a broader alliance that defends leafletting as a civic freedom.

There is another obstacle to the progress of these campaigns, which is a lack of solidarity within civil society, where different groups support the suppression of their rivals. One arts organisation that leafleted outside a university in Newcastle, claims that the university sought a ban on flyering in the area in order to reduce competition with Student Union events.

When we raised the leafletting zone with the Oxford Playhouse, they responded that the issue 'doesn't concern us', because they were prevented from leafletting as a condition of their licence. In fact, their main concern was that while *they* abided by their licence

conditions, *other* theatres did not, and so were at an unfair advantage. When we suggested that all theatres should be allowed to leaflet – and that they had an interest in a vibrant student theatre scene, which would be squashed by the leafletting zone – they agreed that they did.

Nevertheless, such sense of common interests between organisations are not always at the forefront of people's minds, and we have come across several cases of organisations reporting other organisations for unlicensed leafletting, and so contributing towards the policing of the scheme. For these rebellions to bear fruit, firmer alliances and a more conscious civil liberties culture are necessary.

Section 2: Leafletting as 'Offensive'

Legislation on 'offensive' speech or writing presents another major restriction upon the freedom to leaflet. While past censorship tended to target a particular camp or school of thought, 'offence' regulation restrains any potentially inflammatory or controversial opinions, and has led to the disciplining of leafleteers from all political camps: Christians, atheists, animal rights activists, environmentalists, Jewish groups, libertarians, anti-capitalists, anti-abortion protesters, and both the British National Party and anti-racist groups.

Although 'offence'-based legislation has different origins from the littering legislation of the Clean Neighbourhoods and Environment Act, they share an underlying theme: a suspicion of everyday social life, in all its dissonance and variety, and the seeking of officially mediated social life that is sanitised, uncontroversial, *clean*.

'Offensive' leafleteers have generally been punished for the offence of causing 'harassment, alarm or distress', which has been defined in an increasingly broad manner in a series of laws since the 1980s. These laws include:

The Public Order Act 1986 created the category of 'harassment, alarm or distress', when a person 'displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.' The significant shift of this law, compared with previous public order powers, was that the person did not have to threaten violence; and that although somebody had to be present they did not actually have to have been alarmed or distressed.⁷²

The Protection from Harassment Act 1997 creates an offence of intentional harassment, 'A person must not pursue

a course of conduct (a) which amounts to harassment of another, and (b) which he knows or ought to know amounts to harassment of the other.'

The Crime and Disorder Act 1998 created Anti-Social Behaviour Orders (ASBOs), under which a person could be prevented from pursuing harassing or offensive behaviour. These provided much broader powers: there didn't need to have been a member of the public within sight or hearing of the offending behaviour; the harassment/alarm need not have been serious; and finally, intent to offend need not be proven.⁷³

The Criminal Justice and Police Act 2001 introduced on-the-spot fines for causing 'harassment, alarm or distress', which would not therefore be tested in a court of law but issued summarily.⁷⁴ This gave officials unprecedented power to define offensive or distressing behaviour, without the checks and balances of a court of law.

Together these laws provide a panoply of legislation for the prosecution or punishment of political or religious leafleteers, whose leaflet is held by officials to be in some way 'offensive'.

We asked police authorities for their proceedings against leafleteers for causing harassment, alarm and distress, but, because of the way they hold their data, most could not answer the question. The only police authority that did answer – Avon and Somerset police – said that between 2008 and 2010, 63 people were issued with on-the-spot fines for causing harassment, alarm or distress for 'writing or signs'. Thirty people had been arrested but not charged for offensive writing or signs; 15 were arrested; and 11 cautioned. This is a total of 119 proceedings. If we assume a similar pattern in all 43 police authorities across England and Wales, this would mean that around 5000 people faced criminal sanction for offensive leafletting

between 2008–10. This is clearly a very rough estimate, however, since the sizes and practices of police authorities vary greatly.

Another indication of the scale of the issue is the total number of on-the-spot fines for 'harassment, alarm and distress': 325,180 between 2005–9, or an average of 65,036 a year.⁷⁵ That so many people were punished without seeing a court of law, means 'harassment' – a potentially very subjective term – has been largely defined by officials' volition.

A few of these cases have come to public attention. Several Christians have been disciplined for condemning homosexuality, including Stephen Green from Christian Voice, who was arrested and tried for handing out leaflets about homosexuality at the Cardiff Mardi Gras.⁷⁶ Although gay party-goers were in the majority and could easily have handled Mr Green, he was arrested and summoned to court under the Public Order Act 1986 charge of using 'threatening, abusive or insulting words or behaviour'. Yet his leaflet mainly included quotes from the same Bible that sits in every court, and far from being mindlessly insulting, appeared to be a sincere (if awkward) attempt to win over his chosen audience.⁷⁷

Members of Jewdas, a satirical Jewish group from north London, spent a night in the cells on the charge of 'distributing racially inflammatory material', after handing out a leaflet headed 'Protocols of the Elders of Hackney'.⁷⁸ There is clearly something wrong with offence legislation when a Jewish group can be arrested on suspicion of distributing anti-Semitic material.

Atheists have also fallen foul of these laws. In 2010, an atheist was given an ASBO for his leaflets mocking Jesus, which he left in prayer rooms at Liverpool's John Lennon Airport.⁷⁹ Harry Taylor was convicted of 'religiously aggravated harassment, alarm or distress'

Census campaign poster, www.census-campaign.org.uk



and received an ASBO banning him from 'carrying religiously offensive material in a public place'. Meanwhile, this year, a secular poster and leaflet campaign urging atheists to tick the 'no religion' box on the census was pulled, on advice that it would cause religious offence.⁸⁰

In August 2004, ASBOs were issued against two protesters holding a banner and handing out leaflets outside Reed Exhibitions, the organiser of Defence Systems and Equipment International, the world's largest arms fair. Police issued a temporary ASBO to order their dispersal and ban them from Richmond for 24 hours.⁸¹ In April 2006, a Doncaster man who entered into a spat with the *Barnsley Chronicle* was also issued with an ASBO, preventing him from distributing leaflets about his local paper.⁸²

A privacy campaigner was given an on-the-spot fine for handing out leaflets arguing that local CCTV cameras represented a 'monstrous invasion of privacy'.⁸³ Keith Sharp, from Dawlish, handed out 4000 leaflets to local residents when the £80,000 cameras were

switched on in March 2007; he was later visited by a police officer and issued with a £80 fine for causing 'harassment, alarm and distress within the community'. A few months later the privacy campaigner quit Britain for Argentina, saying that he was 'tired of being spied on'.⁸⁴

Offensive signs have also been targeted, and a Gulf War veteran was forced to take down a patriotic sign from his taxi cab after the council told him that it was 'offensive' and potentially 'racist'.⁸⁵ Anti-abortion activists in Brighton were detained for 'harassment, alarm and distress', for their protest outside an abortion clinic, which included a photograph of an aborted fetus.⁸⁶ Several animal rights protesters have been cautioned for offensive posters and leaflets – one animal rights activist told me that after several challenges from local police she now only showed 'fluffy' pictures of animals.

A series of environmentalist or anti-capitalist activists have been prevented from leafletting on harassment or offence grounds. In 2010, Plane Stupid activists were stopped and searched for leafletting outside the architects building the third runway at Heathrow.⁸⁷ The Haringey Solidarity Group was prevented from leafletting outside the Universal Church of the Kingdom of God,⁸⁸ and a Manchester resident was threatened with eviction for posting anti-Iraq war leaflets through fellow residents' doors (Manchester Council claimed that his leaflets 'breached the peace').⁸⁹ In Liverpool in October 2008, police broke up political stalls and leafletting distribution in the city centre, charging leafleteers with causing 'alarm and distress'.⁹⁰

In summary, a whole swathe of political opinion has been silenced. Some of this was eccentric and rude, or wrong-headed. But in every case, individuals produced leaflets promoting their genuinely held beliefs, and handed them out to fellow members of the public



whom they wished to influence. They should have a fundamental right to do so. These broad ranging and potentially arbitrary offence powers stifle expressions of opinion, and cut off genuine argument between people about political or religious issues.

These offence powers purge political life of the moment of ideological conflict, which John Stuart Mill termed the 'ethical confrontation'.⁹¹ Mill saw the conflict between different beliefs as the vital moment of civic life, the point at which understanding develops and truth is discovered. Offence legislation restricts dissension and restrains any passionate encounter between different views; a fragmented and uneasy quiet reigns. If gays cannot debate Christians, or anti-racists debate racists, then all positions are mere empty slogans rather than living and fully developed convictions.

At a more everyday (but no less important) level, offence rules drain social life of character and eccentricity. Philip Howard, a Liverpool preacher who harangued crowds on Oxford Street ('don't be a sinner, be a winner!') was issued with an ASBO after Westminster Council judged that he caused 'harassment, alarm and distress' to passers-by. Although the council may have been distressed by Howard, most Londoners either ignored him or treated him affectionately as part of the London street scene.⁹²

Howard's treatment is in stark contrast to that of another London character, Mr Stanley Green, 'the Protein Man', who for decades patrolled Oxford Street urging people to eat less protein in order to reduce their excess passion. Mr Green was left undisturbed to ply his eccentric views between 1968 and his death in 1993, and became a folk figure with several walk on parts in novels.

Phil Howard preaching on Oxford Street in London, 2006

Stanley Green 'the protein man' expressed his views on Oxford St between 1968-1993



Section 3: 'No Tolerance' of Posters

In the course of our investigations into leafleting, we discovered a similar new 'no tolerance' approach to community posters. This new breed of regulation has the same origins as leafleting regulation, was introduced at around the same time, and has had a similarly detrimental effect on grassroots organisations and events.

3.1 History of Flyposting Regulation

There has always been flyposting regulation: warnings to 'stick no bills' or 'post no bills' appeared on both public and private property from the early nineteenth century. Yet there has also been a long tradition of posterage: parts of nineteenth-century cities were plastered with posters, and it was common practice for anyone holding a public meeting to post announcements in the vicinity. When the temperance leader Joseph Livesey visited London in the 1830s, for example, he reports that he advertised his meeting by sticking posters 'in the passages of the Bank of England' but that 'they were lost among the flaring bills on the London walls'.⁹³ Mobile advertising and billboards were invented in response to competition for packed city walls.

Specific laws from the 1980s onwards prohibited the affixing of posters, namely:

The Highways Act 1980 prohibits a person who 'without consent ... paints, inscribes or affixes any picture, letter, sign or other mark on the surface of a highway, tree, structure on or in a highway', and gives the Highway Authority powers to remove any poster / picture / sign.

The Town and Country Planning Act 1990 gives powers to the local planning authority to remove any unauthorised advertisements, and makes the offender liable for a £1000 fine.

Yet these powers were rarely used, and in general local authorities took a relaxed approach to posters, especially small-scale or community posters which they reasoned 'did no harm'. Again, it was *unreasonable behaviour* that was punished – for example, if a poster obscured a road sign, caused damage to property, or was carried out on an excessive or commercial scale.

Citizens were largely free to put up posters on lampposts or certain informally designated areas, such as hoardings, electricity boxes or boarded up shops – i.e., parts of public space that were unoccupied or not obviously being used. There were informal codes of 'good behaviour': for example, using masking tape or string so the poster could be easily removed, and taking the poster down afterwards. As a result, property was not damaged but local people and organisations had an easy way of letting others know about their events.

The local authority crackdown on posters started in the early 2000s, when several London boroughs brought cases against commercial flyposters. This was initially prompted by companies turning to 'guerrilla marketing' as a hip new advertising technique. In 2001, Westminster Council took a case against Nike for an illegal inner-city flyposting campaign;⁹⁴ and in 2004 and 2005, Camden and Westminster councils prosecuted larger music promoters who had been flyposting in their boroughs.⁹⁵

Yet this crackdown spread from commercial operations to a blanket prohibition on posters including everything from lost cat and coffee morning notices to election posters, direction signs for charity bike rides, adverts for a school open day. Liverpool City Council established a 'zero tolerance zone' in the city centre, 'with the aim of eliminating all graffiti and flyposting as soon as it appears'.⁹⁶ This crackdown on posters used the Highways Act 1980

in a much broader manner than intended, not targeting posters that were a hazard to drivers but posters of all kinds. This was also aided by new powers, including:

The Anti-Social Behaviour Act 2003 allowed local authorities to serve on-the-spot fines for minor graffiti or flyposting offences.

The Clean Neighbourhoods and Environment Act 2005 allowed the council to serve a 'defacement removal notice' on owners or occupiers whose property is 'defaced' with flyposting or graffiti, and also increased penalties per offence.

Yet again, we find local authorities are over-stepping their already substantial powers. The Town and Country Planning (Control of Advertisements) Regulations 2007⁹⁷ gives specific exemption for small-scale community adverts, saying that advertisements will be judged to have 'deemed consent', and therefore not require permission, if they are:

- a. announcing any local event of a religious, educational, cultural, political, social or recreational character, or
- b. relating to any temporary matter in connection with an event or local activity of such a character, not being an event or activity promoted or carried on for commercial purposes.

The Act also gives exemption for adverts 'relating to the visit of a travelling circus, fair or similar travelling entertainment'. These are broad exemptions, and should encompass everything from election posters to adverts for concerts or music nights – yet many local authorities have ignored this exemption and cracked down on posters across the board.

3.2 'No Tolerance' of Community Posters

Local authorities are increasingly taking a 'no tolerance' view of community posters. In our survey of local authorities, a substantial portion said that they allowed no posters whatsoever, and quoted different legal bases for this (including the 1980, 1990 and 2007 acts cited above).

Slough Borough Council claims that all posters are 'illegal under the Highway Act 1980, the Town & Country Planning Act 1990, the Anti-social Behaviour Act 2003 and The Clean Neighbourhoods and Environment Act 2005. It makes an area messy and untidy. Slough Borough Council has a zero tolerance policy on fly-posting'. This policy includes posters by 'community groups and other artistic or local community events' as well as by businesses.

North Hertfordshire also takes a zero tolerance approach, and will not allow 'ad hoc signs and posters to provide information to the local community' either by 'individuals (e.g. a resident seeking help in finding a missing pet via a poster on a lamp column)' or 'not-for-profit bodies (e.g. a Parish Council advertising its summer fête)'. Nevertheless, the council said that it would seek to 'control this issue' by taking the poster down and sending a warning letter rather than issue fines.

Canterbury City Council sought to tackle all categories of flyposting, including 'adverts ... for local events, often photocopies put up in large numbers on a regular basis. These may advertise bands playing in pubs, car-bootsales, lost animals and fairgrounds. They may be attached to lampposts, railings, and street furniture or pasted on buildings. Many are for charitable events.' Its enforcement policy was:

Charities remove and issue [fine] on second offence
Schools and community groups request removal followed by enforcement
Lost cats/dogs remove after a week and advise owner not to display further posters. Give advice on alternatives.⁹⁸

These no tolerance policies seem to have started around five years ago. Wolverhampton Council told us that 'five years ago, we started enforcing more vigorously';⁹⁹ Lewes District Council started cracking down on posters for events such as the Steam and Country Show in 2006;¹⁰⁰ and South Ribble Borough Council said it shifted to 'no tolerance' around 2005. Since then, more and more councils declared a 'no tolerance' approach, and harder-line councils tended to be emulated by neighbouring authorities.

This is not simply a response to litter, since crackdowns occur even when the area has no noticeable problem of flyposting. For example, Bassetlaw District Council told us that 'Fly-posting has never been a serious problem in Bassetlaw, certainly, large scale commercial fly-posting by promoters of concerts etc, does not occur. The council has traditionally taken a fairly relaxed approach to fly-posting, only taking action in "serious" cases - this would entail removing the posters.' But nonetheless in January this year it 'introduced a "zero tolerance" approach to environmental crime, including fly-posting, which 'would rather seem to commit the council to take some form of action against all instances of flyposting, including lost cat notices, etc'.¹⁰¹

Local authorities use stiff penalties to enforce these rules. Islington Council issued 219 removal notices between April 2010 and February 2011, while Hinckley and Bosworth Borough Council has given out 188 warning letters since 2007. Manchester City Council issued

344 on-the-spot fines between 2007 and 2010, while Hackney issued the most, 627 in 2009/10.¹⁰² Several councils issue fixed penalty notices per poster, so somebody putting up 20 posters could end up with a £1600 fine.

These 'crimes' are primarily the result of hardline policies, rather than a response to a pressing local problem. This is indicated by the fact that very similar neighbouring districts take a different approach to the issue (for example, South Somerset District Council allows no posters and issues penalties, while Dorset is lenient); and also by the fact that there are rapid shifts in enforcement within one authority (for example, Hackney Council issued only 32 fixed penalty notices in 2008–9, then 20 times more the following year).

3.3 The Effect on Community Life

These no tolerance rules have a heavy effect on community life, as groups are prevented from appealing to fellow residents or letting local people know about their events.

The War on Lost Cat Posters

There have been a growing number of cases of people threatened with fines for 'lost cat' posters. In 2008, Tameside Council in Manchester threatened pensioner Joy Tracey with a fine for putting up posters of a stray cat she had found.¹⁰³ The pensioner had sought to reunite lost cats with their owners before, she said: 'I've put up posters for missing cats before and no-one has said anything. Lots of people do it and I don't know why there's suddenly been a big song and dance about it.'¹⁰⁴ Also in 2008, a 13-year-old boy was threatened with a fine by Canterbury City Council for putting up posters about his lost cat.¹⁰⁵

In 2009, a distraught cat owner in Croydon begged the council to stop tearing down her posters.¹⁰⁶ 'I stuck these posters up all around the roads near me because I desperately want him back. They initially took them down, so I put more up, then they removed them again. I don't think they're offending anyone, so why does the council have to take them down?' Also in 2009, a mother from Isleworth in Middlesex was reprimanded by council officials for putting up posters about a cat she was desperate to get back because it was important to her autistic son.¹⁰⁷ In June 2009, a local pensioner received a threat of a fine for the 20 posters she had displayed in Worthing. 'Should missing pet posters really be classed as flyposting?', she asked.¹⁰⁸

In February 2010, a woman from Walthamstow in London was fined for her lost cat posters.¹⁰⁹ In January 2011, Mike Harding was threatened with a £1000 fine by Bedfordshire Council for putting up missing cat posters.¹¹⁰ The council sent him a letter saying that they should be removed by 9am on Christmas eve, so Mr Harding spent his Christmas holiday running around removing the posters.¹¹¹ The council justified its actions with the statement that 'flyposting is now considered to be a contributory factor in urban decay'.

This crackdown on lost cat posters shows how 'no tolerance' policy is detached from public opinion: such posters are long-established and perfectly accepted, and normally get a good response from the local community. It also shows how the crackdown on flyposting actually suppresses altruistic interactions and expressions of 'community spirit', since residents are prevented from appealing to others for help.

Circuses

Circuses are explicitly given 'deemed consent' under the Town and Country Planning Act, and therefore should not require permis-

sion in order to put up posters. Some of the councils we surveyed (including Swindon, Brighton, Bolsover, Nottingham and Cheltenham) said that circuses were exempt from restrictions on adverts – yet other councils have been cracking down.

Leeds City Council said that it did not allow posters by circuses since these were 'commercial', and so uses the Highways Act 1980 to remove posters or alternatively sticks 'cancelled' stickers on them. (These stickers obscure the poster and also serve a legal injunction on the poster owner.) Warwickshire County Council also said it did not allow advertising for circuses.

Paulo's Circus Americano describes the shift in councils' approach towards circus posters. The circus first encountered a problem in Newquay in 2006, when as one representative explained at the time, 'Restormel [the borough in which Newquay lies] took our posters down. Then we decided to go round town in a van with music and a microphone, but the police stopped us'.¹¹²

In a recent telephone interview, circus representative Kenny Junior told me that it has become increasingly difficult to put up posters. A few years ago, the circus would advertise with posters 'every couple of lampposts'. When councils started taking down posters, the circus started to ask people if they could put up posters on their land: 'We put up boards on farmers' gates, or the entrance to churches.' But even these were taken down: 'One council removed these and told us that we have to pay money to get our boards back'.¹¹³

Local Shows/Fêtes/Events

Many local events have also fallen foul of these rules. Liz Day, from the Sawbridgeworth Evening Women's Institute, said that as well as being reprimanded for leafleting, the group had also received a council warning letter for a poster it pinned to a lamppost.¹¹⁴

In November 2007, a village hall down a quiet lane was threatened by South Somerset District Council with a £75 fine per poster, under the Clean Neighbourhoods and Environment Act. The Council said: 'It is not our intention to deprive the village of community events. It is just our duty to enforce legislation in regards to anti-social behaviour.' The treasurer of the village hall committee, Paul Bradly, responded: 'The fliers drum up interest in an event. The more people find out about it the more will come and the more money will be raised. How is that anti-social?'¹¹⁵ The event was being organised by somebody renting the village hall, so Bradly didn't even know where the posters were, yet the council claimed that under the CNEA he was responsible.

Again, reality is inverted: social life is cast as anti-social, and the council's act of suppression as acting for a 'cleaner, safer community'.

The scale of the issue is indicated by Lewes District Council's list of all the posters it has taken down over the past five years (January 2006–January 2011), which includes 86 posters, the majority of which are for small-scale and community events. These include: the Cuckoo Fayre Spring Show (a display of old motor vehicles in Laughton: two offences), the Needlework Festival, County Fair at Borde Hill, the Glynde Food and Drink Festival, the Garden Show at Firle Place, the Country Fair Cuckfield, Smallholders' Show, Ringmer Steam and Country Show, Barcombe Mills Country Show (two offences), Festival of Transport, Art at Firle and the Bentley Wildfowl Woodfair.¹¹⁶

Reigate & Banstead Borough Council also sent us a list of all the posters they had removed since 2008. These average around ten a month, and include the National Blood Service banner for blood donations, Chinthurst School's open day advert, the 7th Banstead Scout Group banner, Craft Fair and North Downs Model Railway,

St John's primary school's ad for a 'summer fun day', and several 'for sale' signs. The council official also cracked down on temporary signs directing events, including signs to the Motor Caravaners' Club, and directions for both an Action Medical Research Cycle Ride and the London-Brighton Veteran Car Run.¹¹⁷

Posters are essential for fairs and other annual events; it is only through roadside advertising that people know something is going on. Community events promoter Steve Goodheart describes the difficulty that poster bans present for the Sussex-based ROX music and arts festival, a travelling festival that will be in Bognor Regis this July:

'Over the years we have had over 5000 artists perform, and our aim is to create platforms for artists to play with the best kit we can get to the whole community, and it's all free. We are all volunteers who work all year round on other music and art events. To advertise the festival is always hard because the best way of doing it is roadside boards and posters, and we have had many problems with all the local authorities. We are holding a free community festival and we get treated like kids.'¹¹⁸

This no tolerance policy is enforced in the name of the community, but it actually works against both residents and visitors, both of whom want to know what is going on in their area. When I lived near Lewes the only way I found out about local fêtes and exhibitions was from posters on the main road, exactly the kinds of posters the council is busily taking down.

Political Campaigning

It has long been common practice for parties and candidates to post election posters on lampposts and walls around a town

or city. Yet several areas now prohibit election posters on all council property.

Glasgow City Council banned election posters on council property in 2009, arguing: 'We simply don't need to fill the streets with posters any more and should take this chance to cut down on the paper and plastic waste we create.'¹¹⁹ Several other Scottish councils followed suit. The Scottish Borders Council passed a ban in March 2011, with a broad-brush motion to 'prohibit the attachment of posters or other advertising materials to lamp posts by political parties or other organisations at times of elections or at any other times'.¹²⁰ Glasgow South and Eastwood also planned a ban in the run-up to the 2011 elections.¹²¹

Havering Council now writes to all political parties at election time to tell them 'that there is no authority to display political posters on council property or land'.¹²² Meanwhile, Blackburn Council fined a parliamentary candidate almost £4000 for posting 47 banners in the 2010 general election.¹²³ Staffordshire Country Council also announced a ban in March 2011.¹²⁴ A councillor justified the policy, saying:

'The zero tolerance approach is an attempt to stop political parties putting up election posters, or any other election material, on road signs, lampposts or other highways structures. This is in line with our policy when it comes to attaching unauthorised promotional material along our roads. Most people agree that these posters are an eyesore and quickly become scruffy.'

The council also said that abiding by the poster ban 'demonstrates a commitment to responsible citizenship and the environment that local people want from their politicians'.¹²⁵

So now the suppression of election posters is defined as 'responsible citizenship', and candidates' appeals to voters are merely 'an eyesore'. This shows how democratic activity itself is dismissed as meaningless clutter and 'mess'. The prospect is an election without posters, a cityscape untransformed by the event.

Election poster bans can only increase community disengagement from politics and dampen any remaining excitement about the electoral occasion. Indeed, it was telling that Edinburgh City Council rejected a ban on election posters on the basis of the effect that it would reduce turnout.¹²⁶ Poster bans could also be a means of suppressing rivals: the Scottish National Party (SNP) claimed that Labour's ban on posters in Falkirk was motivated by the party's shortage of activists to put up its own posters;¹²⁷ while others have maintained that the Glasgow City Council ban was also aimed against opposition parties.

These poster bans affect smaller-scale local political activity too. Waltham Forest Council had to reverse its 'anti-clutter' ban on posters, after it found that resident-run environmental campaigns were unable to promote themselves. It announced:

'As we are encouraging residents to become actively involved in our campaigns to make our local environment a cleaner and better place to live it is now thought appropriate to enable any events being organised to be publicised in the local vicinity for a short period of time in order to ensure good participation and positive results.'¹²⁸

Yet a new generation of political activists take it for granted that democratic politics must not leave the merest trace on street architecture. The guidance for 2011 Cambridge Student Union elections informed candidates:

'Flyposting is illegal and will not be tolerated by the City Council. This includes anything attached to street furniture such as telecom boxes, railings, or street lamps. The method of attachment is irrelevant, so even Sellotape, Blu-Tack or boards attached with string are still flyposters and open to prosecution. Any markings using chalk, lipstick or anything that makes a mark on something is illegal and you can be arrested for such actions.'¹²⁹

The lamppost has for decades provided an impromptu poster board and means of getting your message out. Now councils are reasserting control over the lamppost, keeping them clean of the merest chalk mark or lipstick smudge. One Scottish Borders councillor clearly asserted this jurisdiction when he said: 'We can't do anything about [election] posters appearing on trees but council lamp posts are under our control and we should be seen to be doing something about this.'¹³⁰

'Anti-social' posters

Councils used remarkably strong language to describe the debilitating effects of posters on public space. Obviously, when posters get old they can get tatty, but local authorities seem to have a blanket disdain for community posters, regardless of their condition, and regardless of whether they are attached with glue (and so can leave lasting marks) or affixed with string or masking tape (which has no lasting effect).

South Tyneside Council describes posterage as an 'illegal, anti-social activity that creates a negative impression of an area and contributes to people's fear of crime'.¹³¹ Hounslow went further to claim that posters are part of 'local organised crime' and made 'the environment look unkempt and unclean, causing litter and at times can be a health and safety risk'.¹³² Brent, meanwhile, said that

posters can 'act as an anti-social magnet which encourages a social downward spiral and can lead to an increase in local residents' fear of crime'.¹³³

Some perspective is required. These posters are generally advertising concerts, fairs, circuses – *social events* – yet they are seen as an 'anti-social magnet' for all kinds of seediness and criminality.

In officials' eyes, reality is turned upside down: the event that actually gives the community life is seen as encouraging a 'downward spiral'; the event that boosts the local economy is seen as causing local decline and decay. If people in a rural part of Sussex are prevented from advertising their spring shows, which bring visitors and an important income stream to the area (not to mention being the high-point of the year), this is of no benefit at all to the local community. Again, we find that the policy of 'clean' streets actually means streets clean of everyday social life.

Renting Out Public Space

The regulation of informal posters has led to the growth of commercialised poster sites in towns and cities across the UK. Of course, larger companies have always paid to advertise on proper poster boards, but a whole section of small businesses, local organisations and events would put posters on lampposts and empty hoardings. When they cannot, companies fill the breach by selling low-key advertising space at designated sites.

It was surely no accident that Glasgow City Council's crackdown on posters coincided with the appearance of 300 new ad panels run by the multinational advertising company Clear Channel Outdoor.¹³⁴ Brighton council crackdowns boost business for Swatmarketing, which sells space for a variety of sites along the seafront.¹³⁵

City Centre Posters has deals with several local councils, including a 'lamppost wraps package' for the Edinburgh fringe festival that costs £50 for 30 posters.¹³⁶

When I called Plymouth Council, an official told me, 'there is nowhere where you can put up posters for free': 'If you just put them up anywhere that is classed as illegal flyposting and you can be fined. That is even the case with lost cat posters. We spent years cleaning up the city, and do not want it back I'm afraid.' The Plymouth 'City Centre Company' runs several 'drum' poster sites where you can put your poster for £18 a week. Somehow these sites are seen as 'clean', while informal posters are 'messy'.

Many of the fees charged are way beyond most local events or clubs. Tameside Council charges £250 per banner, and a 'reduced' fee of £125 for 'events with community links', such as sporting events or keep fit.¹³⁷ Tameside Council waves the fee for community events, but they still have to go through bureaucratic hurdles that cost time and money. They must apply at least 14 days beforehand; detail the wording of their banner, and the site where they will place it (there is a list of approved banner sites, each with its own identification code). A charity or community group has to send in their charity certificate or community interest certificate.¹³⁸ Finally, they must have public liability insurance of £5 million, and sign an indemnity for claims for damage as a result of the posters.

A More Liberal Approach is Possible

Thus far the more authoritarian councils have been the trailblazers, and a council with a particularly strict policy tends to get calls from other councils wanting to emulate it. But an alternative dynamic is possible – which is that the more liberal councils show the way for others.

Our survey of local authorities showed some do take a more liberal approach, and they are not swamped with rubbish but succeed in negotiating the issue with local residents with a light touch. Suffolk Coastal District Council said that it took a ‘tolerant approach’ to ‘social advertising’, and several other councils said that they left all posters unless they received significant complaints. Councils including Tamworth and Litchfield applied the full exemptions of the 2007 Town and Country Planning Regulations, and so allowed posters for community events, circuses and elections.

It would be preferable if councils applied a broad interpretation of the exemptions in the 2007 Town and Country Planning Regulations. The danger otherwise is that local authorities apply their own (often relatively arbitrary) assessments of which posters have ‘community value’ and which do not. John Eccleston from Wolverhampton Council told me that in his view flyposting ‘looks cheap and nasty’ and so he wouldn’t allow adverts for coffee mornings; however, he said that he *would* allow lost cat notices, memorials, and give-blood notices, which ‘are a matter of life and death.’¹³⁹

Waltham Forest Council judged that ‘coffee mornings should not require flyposting’, although it permitted ‘A-Boards outside the venue on the day of the event’. While some councils allow posters by circuses, Leeds City Council specifically excludes circus posters on the basis that they are ‘commercial events’ – and also applies strict ‘community event criteria’ to organisations hoping to benefit from its ‘community event tolerance’.

It would be possible for councils to respect existing exemptions and allow small-scale temporary adverts, so long as they don’t damage property or cause obstruction. For decades, posters were broadly tolerated and informally regulated: there is no reason why this could not be possible again. Steve Goodheart from ROX festi-

val said ‘I’m sure it’s a mindset that could and should be changed. It’s a control thing, run by people who read rules only one way.’¹⁴⁰ Such a policy would yield savings to councils, which currently spend large amounts of time and effort cracking down on lost cat and community posters. The Reigate & Banstead Borough Council official went to extraordinary lengths in order to take proceedings against unauthorised posters: he hand-delivered warning letters to offending primary schools, and spent whole days attempting to find the person responsible for the London-Brighton Veteran Car Run signposts (the organisers were presumably busy with the event). Yet the results of his efforts would be entirely negative – reducing visitors to a school fun day, and leaving Surrey full of lost vintage cars whose drivers missed the turning to Brighton.

Section 4: Free Speech Just for Local Authorities?

4.1 Council Messages in Public Space

The suppression of public leaflets and posters has coincided with a massive growth of official messages in public spaces. When lost cat posters are removed from lampposts, they are replaced with local council banners calling on people to give up smoking or have safer sex.

In the centre of Barking in east London, for example, nearly every lamppost bears some kind of notice from the council or the Metropolitan Police, and there were several large standing noticeboards (many in a state of disrepair). These included announcements about CCTV cameras, including a large sign reading 'Are you on camera now?'; a sign that said 'Attention! Beware thieves and pick-pockets!'; a sign announcing that the street is an alcohol control zone; and a repeated banner ad urging people to use a condom.

When he was London Mayor, Ken Livingstone ran banner ads throughout central London urging more environmentally friendly behaviour. Hammersmith's main shopping street has banner ads the length of it, urging people to 'stop smoking for good in 2011' and claiming that 'non-smokers are less stressed than smokers'. The electronic message boards in Brick Lane bear the latest preoccupation of Tower Hamlets council, whether it is firework safety or under-age drinks sales. As well as lampposts, councils have also started to use litter bins to post warnings to 'clean up after your dog' or face an on the spot fine.

So the regulation of public posters is not about 'street clutter' itself, since council and other official clutter in public spaces is at an all-time high. Our Manifesto Club publication *Attention Please*¹⁴¹ documented how many public spaces are virtually plastered with instructions and warnings, to 'mind the step' or 'please use the handrail': we counted 24 caution signs on a double decker bus,

CCTV sign, Kings
Cross, London, 2011

Anti-CCTV posters,
Birmingham, 2006

'... However you do it
wear a condom' NHS
Barking and Dagenham,
safer sex poster, 2010

'Leave it on show
expect it to go',
Metropolitan Police
notice, London, 2008



and 95 safety signs between the Royal Festival Hall and Waterloo Bridge on London's South Bank.

'Clean public spaces' actually means officially controlled spaces; spaces dominated by official injunction. While community posters tend to be about things going on in the area, council posters are much more likely to point out threats (especially from other people), or warn about banned activities (drinking in the park, skateboarding, ball games, cycling). It is interesting that in the council's view a coffee morning poster can encourage 'fear of crime', while a poster warning 'Beware thieves and pickpockets!' or 'You are on CCTV!' apparently does not. Local authorities see the world upside down: it is actually their posters that are more likely to 'bring an area down' and encourage 'fear of crime'.

Council posters can be even be quite offensive. Camden Council's posters about dog dirt featured enormous images of the stuff, and when they were rolled out across London some of these images had to be covered up after members of the public complained. Barking and Dagenham's condom warning featured an image of a flamingo with the strap line: 'Female flamingos stick their heads under water whilst mating ... whatever way you like doing it, make sure you wear a condom'. A Local Government Association poster series – ostensibly trying to increase civic pride and respect for council services – featured a woman in fishnets vomiting, with the strap line 'My council clears up my mess'.

While citizens cannot hand out their leaflets to one another, councils have increased the number of leaflets they send or give to citizens (see leafleting budgets below). Cornwall Council made this explicit in its answer to our FOI request: *'the only marketing material we should have in our own public areas is products produced by ourselves or our partners.'*¹⁴²

'Don't lose it, look after it', Camden Council poster, London, 2008



Some local authority leaflets advertise local events such as festivals, but others suppress rather than encourage local activities. Ironically, Nottingham City Council produced a leaflet to inform people about its upcoming leafleting ban. Authorities in the town of Moreton distributed leaflets informing young people that the urban sport of freerunning (or parkour) would 'no longer be tolerated' because of 'anti-social behaviour and damage to public buildings' as well as 'distress to local residents'.¹⁴³ Yet freerunning is surely one of the more productive things young people could be doing with their time – and indeed, one of the world's leading freerunners is from the small Merseyside town.¹⁴⁴

These are the truly 'anti-social leaflets,' those that stop people from doing things. By contrast, the advert for a local music night is the height of sociability.

4.2 Leafleting Budgets

Many councils who restrict public leafleting themselves spent large amounts of money on leaflets, which could just as easily end up as litter.

Our Freedom of Information requests show that Cornwall, for example, one of the most restrictive of local authorities, spent around £383,097 on leaflets in the last budget year. Leicester City Council, whose rules have been disastrous for arts organisations, spent £54,206 on internal leaflets and posters, and £14,361 on externally produced leaflets for 'cultural services'.

In 2009–10, Manchester City Council (with its strict leafleting licence system) spent £207,341 on leaflets and £25,590 on posters. South Somerset District Council – which threatened fines for a village coffee morning poster – itself spent £32,437 on leaflets (of which £11,870 was for 'arts and entertainment' and £4,614 for 'community health and leisure'). Finally Nottinghamshire County Council – Nottingham was one of the first cities to introduce a leafleting zone – spent £196,663 on leaflets in 2009–10, and £35,080 on posters (design and print costs only).

Of course, local authorities need to communicate with their residents about local services or events. This is an important part of local democracy. But it is important that this communication is not all one way, and that citizens can talk back to their council, and also communicate in an unimpeded way with one another. This growth in official leafleting is objectionable inasmuch as it shows the new restriction is not on leafleting as such – on waste paper or rubbish per se – but only on *citizen leafleting*.

Finally, it is also notable that local authority leaflets often aren't handed out, but are more likely to be left on people's doormats or

Lambeth recycling
leaflet hung on resi-
dential bins through-
out the borough, 2011

Transport for London
leaflet hung on bikes
throughout central
London, 2011



in public spaces. Transport for London hung notices about cycle safety on bikes across London, while Lambeth Council hung a notice about bin collections on all public litter bins. These belong to no one and so are obviously more likely to end up as litter – they also lack the sociability and exchange of leafleting, one person handing something to another, and suggest a much more distant and detached relationship.

4.3 Civic Culture as ‘Image’

We are seeing a new kind of community and cultural life, which doesn’t emerge from the activities of local residents but instead is created from above and geared towards outside actors. The new concern is with the ‘image’ of a place: how it will look to tourists and in the brochure.

It is significant that the ‘cultural regeneration’ of several northern cities involved the suppression of various forms of informal cultural life. In Newcastle the opening of the flagship Baltic Centre for Contemporary Art coincided with the suppression of leafleting by local music and arts venues. Liverpool’s ‘capital of culture’ year coincided with a crackdown on political campaigners and leafleteers.

The 2012 Olympics has coincided with an attempt to ‘clean up’ London and make it more presentable. Westminster Council aims to remove street traders and sandwich boards from Oxford Street, as Daniel Astaire, Westminster cabinet member for community protection, explained: ‘The West End is a world-class destination with 3.5 million visitors every week and these cheap and tatty signs have no part in its future.’ The chief executive of the New West End Company agreed:

Photograph used to depict the 'community' in a Luton Council leaflet, 2011



'Discouraging illegal signage is part of an ambitious programme to declutter and decongest the area to help London's West End compete as one of the world's top shopping destinations.'¹⁴⁵

Yet an online gallery hosted by Urban 75 shows how mobile advertising is a key part of the capital's culture¹⁴⁶, and its collection of historic billboards includes: an 'Anatomical Model of the Human Figure', 'Giraffes at the Surrey Zoological Gardens at Regent Street', 'Gril and Son, Wood Letters Manufacturers, Newport Market' and 'Catlin's Indian Exhibition Hall – 500 portraits, drapes, scalps, wigwams. Admission One Shilling'. There is a difference between 'image' and the historic or living culture of an area.

It is possible for councils to support 'community activities' on paper – financing public art and so on – while stifling local people who are trying to do things for themselves. Chris Natural, a com-

'My Council cleans up my mess', issued by the Local Government Association and later withdrawn from the 'My Council' poster series, 2008



munity events promoter in Brighton, says that the council commissions 'community' graffiti but fines local people for putting up a poster:

'In Brighton, despite not putting up a single board or designated area for community posters, the council are happily spending money going around in little green vans putting "Cancelled" stickers over "inappropriately" placed event posters, even if it's not on council property. Furthermore the same Council were happy to spend £10,000 commissioning someone from out of town to spray stencils over ugly cable boxes, but if local people dare blu-tack a colourful poster advertising a local event on similar ugly cable boxes they get fined. Ridiculous behaviour from a council that regularly advertises itself as a supporter of the arts.'¹⁴⁷

Section 5: In Defence of Leafleting

Leafleting is a key civic freedom and a fundamental part of civic life. The leaflet is hand to hand communication between citizens: a call for others to come to this event, support this campaign, or visit this fair.

The UK's leafleting culture is currently severely restricted and in danger of being extinguished. It is ironic that this is occurring at a time of rising historical and artistic interest in ephemera and everyday cultural productions.¹⁴⁸ A recent folk art project by the artist Jeremy Deller included dozens of curious and imaginative posters and leaflets, showing the continuing value of these spontaneous artistic productions. Indeed, nightclub leaflets can be an art form in themselves, as one club-goer eulogised:

'We're in danger of losing a great underground art form. The pitch and pictures on a flyer can make or break a club. Often DIY and defiantly lo-fi, some are little works of affordable art that live on long after the club itself has gone; stuck to the fridge or pinned up at your workstation, a reminder of a great night out, or the best days of your life.'¹⁴⁹

In the age of Facebook and email, leafleting is no longer the only way of getting your message out, but the rise of social media has not so much diminished leafleting as given it a more tangible value. For one thing, leaflets often carry web addresses for those who want more information. But many also appreciate them on their own merits. Another club-goer posted (on Facebook) about the value of leaflets:

'Not only are [councils] taking away our basic rights, but also free art work and great memorabilia! I've just got in from clubbing, I walked over a mile home holding two flyers and they will join the other great memories and trippy pic-

Padstow May Day
brochure, 2000

Guerrilla gardening
leaflet, London, 2000

March Against Cuts
leaflet, Trades Union
Congress, London, 2011

Stop the M11 Link
Road poster, East
London, 1990s



tures that adorn my bedroom wall! A flyer is just as good as a photo, you remember where you were, who you were with, what the music was like and what crazy adventures you had along the way! This is one thing I never thought would be taken away from us as a generation!’¹⁵⁰

The internet enables rather than replaces the face-to-face appeal, and many organisations use social media to organise leafletting sessions – ranging from anti-capitalist or anti-racist groups, to protests about the cuts in train services from Brockley Central.¹⁵¹

Leaflets and posters don’t ‘bring an area down’ or create ‘fear of crime’: instead, informal leaflets and posters are signs of community spirit, of things going on, of people organising things together. The appeal for a lost cat brings neighbourhood help and concern in response. It is when we *cannot* appeal to our neighbours that there will be fear of crime.

Leaflets and posters can help to bring a derelict area to life, and put unused urban spaces to use. A bare boarded-up shop is surely worse than boards bearing posters about local concerts and a circus coming to town. Without posters people do not know what is going on – that there is a gallery down that street, a craft fair on Sunday, or a visiting motor show ...

Leafletting regulation is not actually about litter, as we can see with the growth of council leafletting and posters. Instead these rules target people’s spontaneous activity in public spaces, which is cast as illegitimate and latently criminal. As one Brighton music promoter pointed out, people’s leaflets are targeted in a way that other commercial products are not: ‘Burger King wrappers can create litter too, but nobody licences them.’¹⁵²

Posted birthday
message, Bath, 2000

Memorial notice
accompanying flowers
planted in a London
park, 2011

Red Lion Theatre
comedy night poster,
London

Nottingham University,
Freshers' Week flyer,
2010



It is an historic irony that this regulation has occurred in Britain, since England was ahead the rest of Europe in establishing a free and liberal press. The licensing of printing was abolished in England at the end of the 17th century, a full century before much of mainland Europe. For much of the 18th century, the majority of French classics were published abroad and sold secretly, but London's streets abounded with pamphleteers touting every cause under the sun.

Now French towns are much less regulated than the UK. As well as liberal approaches to leafletting, French towns and villages often have public notice boards where anyone can put up posters for free. There is no need for special regulation: new posters replace the old, and once an event is passed the next person takes the poster down. In the recent dispute about raising the retirement age, many French towns and villages were carpeted with protest posters and announcements of demonstrations, even at the centre of roundabouts or tied up between benches. During local elections the most distant mountain village has its poster board bearing the posters of the different candidates.

British rights to public free speech were established earlier and more firmly, yet have been eroded more completely. Yet something of the libertarian instinct remains today. We should remember that the early modern English pamphleteers were also called 'cheap' and 'lewde', and indeed some of them were, yet they were the foundation of democratic life. The groups rebelling against leafletting bans today – nightclub promoters in Brighton, music clubs in Newcastle, students in Oxford, comedy clubs in Leicester and the West End – stand in the tradition of these pamphleteers.

On our petition against the leafletting ban in Oxford, students blast the leafletting rules as 'extraordinarily heavy handed, disproportional'.



tionate and bureaucratic’ and an ‘unnecessary restriction on individual freedoms.’¹⁵³ In the view of politics lecturer Maria Grasso, ‘We should be able to use public space freely – to organise things and exchange ideas and information.’ Brighton community events promoter, Chris Natural, says:

‘People gave their lives so that anyone can have the freedom to tell whoever about what they like. This Orwellian leafletting ban may now be targeted towards club events, but how far will its remit be extended in future if it’s allowed to come into force now? Who will be the arbiter of what material is deemed “appropriate” to be licensed? I may have information of something of vital interest to the public. Why should I have to get official approval and an expensive licence?’

As different groups come into conflict with such illiberal restraints they begin to develop a new consciousness of liberty – and a desire to defend hard-won freedoms before they are lost and forgotten entirely.

Recommendations:

A New Deal for Leafleting

1. There should be a presumption in favour of free leafleting

The presumption should be that we are free to leaflet, unless our activity is causing specific problems. The old bylaws punished problematic leafleting behaviour – such as aggression or obstruction – rather than restricting leafleting across the board. This is a good model. It is a foundation of liberal society that we should be free to act, unless our behaviour causes a specific problem.

We call for the abolition of leafleting zones, as laid down in the Clean Neighbourhoods and Environment Act 2005. We also call for the rollback of other restrictive ‘policies’ that ban or suppress leafleting. We will be working with local groups throughout the country to take on their councils’ implementation of leafleting zone powers.

2. There should be more tolerance of community posters

We also call for a much greater tolerance of community posters. Councils’ blanket rules against posters are damaging to community life and out of proportion to any problem caused. A lost cat notice is not a danger and nor does it encourage fear of crime.

We call for a respect for the ‘deemed consent’ clauses in the Town and Country Planning (Control of Adver-

tisements) Regulations 2007, which gives permission for temporary adverts for civic events. This exemption should be interpreted as broadly as possible. The absolutist use of the Highways Act 1980 – in order to remove any poster from any street – is an inappropriate use of these powers.

3. Community solutions are better than blanket rules

It is far better for local authorities to work with leafleteers and posterers through informal agreements, rather than blanket rules and heavy-handed policing. It is good practice for leafleteers to clear up the vicinity afterwards – and before the new rules, many did just this. It is also good practice for people to put up posters using materials that don't cause damage, so they can be easily and harmlessly removed: this was also common practice.

It would be far better for local authorities to invoke the positive ideal of community spirit rather than threatening people with heavy-handed fines.

Local authorities could also provide free spaces for people to put up posters. These cost very little and require almost nothing to maintain, yet they would help people to make things happen in the area. Nightclub promoters in Brighton have proposed this to the council – and offered to maintain it – but the council has so far rejected their suggestion.

4. More bins, fewer litter police

There is one thing councils could do to help litter: provide litter bins and empty them. As one member of the public observed, 'If Westminster Council was so keen on keeping the streets clear of litter, they should empty litter bins more effectively. Oxford Circus is often awash with litter overflowing from bins.'¹⁵⁴

It is notable that the Oxford city centre area that will become a leafleting zone has very few litter bins. If there is a bin nearby, people will put their unwanted leaflets in it.

As well as having grave implications for civil liberties, leafleting licences are an ineffective and wasteful way of dealing with litter. The council time and money that goes into maintaining leafleting licence schemes could be spent far more effectively on some basic street cleaning.

For leaflets that do get dropped (some no doubt by accident), street cleaning is easier than it ever has been. At least in dry weather, most local authorities have machines that clean streets easily and quickly. Clearly, a street cleaner driving around once a day is far cheaper than several officials patrolling the town 24/7 to check leafleteers' licences, not to mention all the admin staff who process their applications, distribute badges, renew licences... .

Finally – in the tradition of ‘keep Britain tidy’ – councils could encourage people to take pride in their area and not to drop litter, whether it is leaflets or anything else. After all, it is those who drop leaflets who are littering, not the person who gave it to them.

5. We need to build a national alliance against leafleting controls

Although there is widespread disgruntlement about leafleting controls, there have been sporadic outbursts rather than a coordinated national challenge. In part, it is divisions between people that allow local authorities to bring in such regulations.

Some groups may invoke leafleting controls against their competitors, as a way of suppressing smaller and upstart operations.

Certain festivals have successfully claimed exemption from some of the licence fees, and no doubt other deals could be struck. These are positive but they only go a certain way. Such exemptions tend to present leafleting as a privilege, graciously granted by the council, rather than as a fundamental liberty.

We need more solidarity and a greater sense of common interest between different groups – to see that the restriction of others is also the restriction of ourselves.

We also need to challenge these leafleting rules as a whole, rather than to claim special dispensation for particular groups.

The petitions we have launched in alliance with groups in Brighton and Oxford, and this report itself, are meant as contribution towards this task: to roll back these rules and reinstate a fundamental public liberty in the months and years to come.



Appendix: Local Authority Leafleting Regulations

The table overleaf lists the authorities that have brought through leafleting regulations, and details, depending on how much information is available for each: the nature of the regulation; the cost of a leafleting licence; the penalty for unlicensed leafleting; the number of fixed-penalty notices given for this offence; and the number of leafleting licence holders.

Council Name	Details of Regulation	Cost of Licence	Cost of Penalty	Fixed-Penalty Notices	Licence Holders
Asford	Clean Neighbourhoods and Environment Act (CNEA) 2005 (introduced 2008)	£25 for 4 days per distributor £40 for a month per distributor ¹	—	—	—
Basildon	CNEA	£150 for one day £800 for a week	—	—	—
Birmingham	CNEA. All leafleteers must wear a badge	£260 per year per distributor	£75	53 in 2008–9 14 in 2009–10	198
Bournemouth	CNEA. 'Several quantities of leaflets seized'	£25 per person per day £100 per person per week plus £250 annual charge	£75	10	57
Brent	London Local Authorities Act 1994	£55 per day	Max £500	—	—
Brighton & Hove	CNEA 2005	£50 per person per month £25 for additional distributor	—	—	—
Bury St Edmunds	Bylaws prohibit leafletting in town on market days	—	—	—	—
Canterbury	Asks to be informed before leafletting	—	—	—	—
Charnwood	Claims that leafletting is an offence under CNEA ²	—	—	—	—
Chesterfield	Bylaws restrict leafletting in marketplace or in parks. Consent scheme for leafletting in town centre, with fee.	£10–£30	—	—	—
Colchester	CNEA enacted in 2007, but no permissions given. Leafletting prohibited in shopping centres and in town centre. ³	None available	£75	60 to date	—

Cornwall	'The guidance states that the only marketing material we should have in our own public areas is products produced by ourselves or our partners.'	—	—	—	—
Cotswolds	'Due to the fact that the Council hasn't designated any areas of land where the distribution of free literature is permissible, it is an offence for any person to do so in the district.'	—	—	—	—
Crawley	Only two organisations/businesses can get permission to distribute at the same time; must book in a diary	None	—	—	—
Darlington	Forthcoming CNEA	—	—	—	—
Derby	CNEA (introduced in 2011) ⁴	Up to £400 per year	—	—	—
Doncaster	CNEA. Cost of licence depends on time and day.	£115–£435	£75; £2500 if prosecuted	16	—
East Hertfordshire	CNEA (introduced in 2007)	£32.17 per day	—	—	—
Gloucester	CNEA. Says 'leafletting is banned under Environmental Protection Act 1990'	—	£75	—	—
Hackney	Need permission from council	—	—	—	—
Hammersmith and Fulham	CNEA	£250 per year per zone per operative (8 zones in borough). Max 10 operatives	£75	125 penalties issued in 2009/10	—
Haringey	CNEA	£46.50 per day per distributor	£75	3	0
Hillingdon	CNEA (introduced in 2010)	—	—	—	—

Council Name	Details of Regulation	Cost of Licence	Cost of Penalty	Fixed-Penalty Notices	Licence Holders
Hull	Prohibits leafletting for events: 'we operate a "no leafletting" policy'	—	—	—	—
Hyndburn	Need permission from council	—	—	—	—
Kensington and Chelsea	CNEA	£163 for one site ⁵	—	36	—
Kirklees	CNEA	100 per distributor per year; plus replacement badges £100	—	21	50
Leeds	CNEA	—	—	120	—
Leicester	CNEA	£101 ⁶ application fee; plus £26 for each distributor; plus £1015 for annual licence	—	14 PND	—
Liverpool	Bylaw: 'It is illegal to hand leaflets out throughout Liverpool, but it is enforced more in the City Centre because of the Litter problem that we have encountered over the years.' ⁷	—	—	7 Prosecutions	—
Manchester	CNEA	£55–£405	£80	23 in 2009	436
Middlesbrough	CNEA	£103, for 10 leafletting sessions in year	£80	2	78
Newcastle	CNEA	£47 per distributor per year	—	—	—
Newport	Forthcoming CNEA ⁹	—	—	—	—
North Tyneside	Forthcoming CNEA	—	—	—	—

Nottingham	CNEA (introduced in 2006) ¹⁰	£50–£400	£75	—	—
NW Leicestershire	CNEA	£30	£80; £2500 if prosecuted	—	0
Oldham	CNEA	£50 per day £400 per year	£80	—	7
Oxford	Forthcoming CNEA ¹¹	—	—	—	—
Preston	Forthcoming CNEA ¹²	—	—	—	—
Royal Borough of Windsor and Maidenhead	Has adopted CNEA, but not yet enforced it	—	—	—	—
Rugby	CNEA. Regulated by Rugby First; public liability insurance required; charities must also pay	£25/£50 per day	—	—	—
Rushmoor	CNEA	£50 for each event	£75	—	19 (most out of date)
Sheffield	CNEA. Distributors must wear badge.	£50 a month	£75	—	—
Solihull	CNEA (introduced in 2007)	£50 per distributor, per day ¹³	—	—	—
South Tyneside	Bylaws on touting	—	£20	—	—
Southampton	Bylaws prohibit leafletting in any street or market. Exception of party leaflets at election time and religious leaflets.	—	—	—	—
Stevenage	Outright ban, no licence available	—	—	—	—
Stockton	CNEA	No charge for local businesses, £250 for orgs outside Stockton	—	—	—

Council Name	Details of Regulation	Cost of Licence	Cost of Penalty	Fixed-Penalty Notices	Licence Holders
Stoke on Trent	CNEA forthcoming	—	—	—	—
Swindon	No licence necessary but you have to book	—	—	—	—
Tamworth	CNEA forthcoming	—	—	—	—
Telford	Leafletting regulated in parks	—	—	—	—
Tendring	Bylaw regulating leafletting on seashore	—	—	—	—
Torquay	CNEA. All consents contain conditions	£75 for 6 distributors	Max £2500	—	37
Wakefield	CNEA (introduced in 2009)	£150 per distributor, per year	—	0 PND 8 warnings	75
Wandsworth	Leafletting prohibited in parks and gardens, under GLC bylaws	—	—	1 warning	—
Watford	CNEA (introduced in 2011) ¹⁴	—	—	—	—
Wellingborough	No licence necessary but must book in town centre diary	—	—	—	—
Westminster	Prohibits flyering in Leicester Square; forthcoming City of Westminster Act will allow blanket flyer bans in designated areas	—	—	—	—
Weymouth and Portland	CNEA. Consent must be sought but no licences	—	—	—	—
Woking	All groups have to book; no bookings for the same day. Requires public liability insurance and risk assessment	—	—	—	—

Wolverhampton CNEA¹⁵ 262 per person¹⁶

Wyre Forest	Says that leafletting is banned under CNEA	—	—	—	—
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- 1 Distributing free literature, Ashford Council, www.ashford.gov.uk/environment/distributing_free_literature.aspx
- 2 Distributing literature, Charnwood Council, www.charnwood.gov.uk/files/documents/distributing_literature_the_facts/
- 3 Free literature, Colchester Council, www.colchester.gov.uk/Info_page_two_pic_2_det.asp?art_id=9890&sec_id=3136
- 4 Printed matter, Derby City Council, www.derby.gov.uk/Environment/StreetCareCleaning/printedmatter.htm
- 5 Leaflet distribution licence, Royal Borough of Kensington and Chelsea, www.rbkc.gov.uk/businessandenterprise/towncentres/marketsandstreettrading/leafletdistributionlicence.aspx
- 6 Free distribution of printed matter, Leicester City Council, www.leicester.gov.uk/your-council-services/cl/licensing/free-distribution-of-printed-matter/
- 7 Liverpool City Council, answer on What Do They Know, www.whatdotheyknow.com/request/leafletting_within_the_city_centre
- 8 Free Literature Licence, Newcastle City Council, www.newcastle.gov.uk/core.nsf/a/licencefreelit
- 9 Free literature, Newport Council, www.newport.gov.uk/stellent/groups/public/documents/report/cont393904.pdf
- 10 Leaflet distribution, Nottingham City Council, www.nottinghamcity.gov.uk/index.aspx?articleid=3165
- 11 Oxford consultation on leafletting licence scheme, www.consultation.oxford.gov.uk/consult.ti/freeprintedmatter/consultationHome
- 12 Distribution of printed matter, Preston Council, www.preston.gov.uk/rubbish-waste-and-recycling/street-cleansing/distribution-of-printed-matter/
- 13 www.lep.co.uk/community/city_centre_leaflet_zone_to_target_litter_menace_1_2832623?action=logout&commentspage=1
- 14 Distribution of printed matter, Solihull, www.solihull.gov.uk/environment/distributionoffreeprintedmatter.htm
- 15 Watford Observer, www.watfordobserver.co.uk/resources/files/13303/
- 15 Free printed matter, Wolverhampton Council, www.wolverhampton.gov.uk/NR/rdonlyres/7CA6CEA1-5A4C-46B1-8705-1658B269729D/0/guidance_freeprintedmatter.pdf
- 16 Distribution of printed material, Wolverhampton Council, www.wolverhampton.gov.uk/CmsInternet/Templates/Normal.aspx?NRMODE=Published&NRORIGINALURL=/business/licences/businesses/distribution_printed_material.htm%3Fwbc_purpose=se%3D...&NRNODEGUID={E7897897-E3AB-453E-8896-434F28BF9AD4}&NRCACHEHINT=NoModifyGuest&wbc_purpose=...



BOURNEMOUTH BOROUGH COUNCIL
APPLICATION FOR A LEAFLET DISTRIBUTION LICENCE

In accordance with the Environmental Protection Act 1990.

This form should be submitted at least 14 days prior to the intended date of distribution, and when completed submitted to
Town Centre Manager, Visitor Information Bureau, Westover Road, Bournemouth,
BH1 2BU.

1 NAME OF APPLICANT:

2 ADDRESS :

(Include business name)

3 Proposed date of distribution

From _____ to _____ total number of days _____

4 Times of proposed distribution

0001-09.00	09.00-17.30	17.30-21.00	21.00-24.00
0001-09.00	09.00-17.30	17.30-21.00	21.00-24.00

5 Location of distribution (specify roads or location. Distribution in Council Car Parks, Parks and Gardens or Seafront will not be granted).

6 Number of distributors engaged at any one time

7 Nature of leaflet (describe purpose as fully as possible, i.e. Promotion of goods and service/ promotion of venue/ event / special offer / recruitment etc).....

8 Confirm that the printed material will contain the name and address of the applicant,
Full address on printed matter Y/ N.

Attach copy of the leaflet..... Copy attached Y/ N.

9 Fee payable attached in the sum of £.....payable to:

Bournemouth Borough Council.

Daily distribution: No of distributors x £25.00 £

Weekly distribution: No. of distributors x £100.00 £

Monthly distribution: No. of distributors x £250.00 £

N.B, consents can be withdrawn if terms of the licence conditions are not observed and the fee will not be refundable in this event.

On completion a licence will not be issued to the address above together with sufficient copies for the number of distributors. The copy licence should be issued to each distributor for production on site if required. Please note consent will not be provided for literature of an offensive/ sexist/ racist nature, nor for the promotion of irresponsible use of alcohol i.e. happy hour 2 for 1/ Money off alcohol etc.



Application for consent to distribute free printed matter in designated areas

Please complete all sections

1. Name of applicant: (Ltd company, business name etc)		
2. Name of owner/manager responsible for distribution:		
3. Business address and postcode:		
4. Local contact name (Licence will be sent to this address unless otherwise specified): Address: <div style="display: flex; justify-content: space-between;"> Day time tel: Evening tel: email: </div>		
5. Specify main distribution locations (please list):		
6. Please tick the box of the licences you wish to apply for:		
Annual licence Standard (0700-1900) <input type="checkbox"/> Premium (anytime) <input type="checkbox"/>	Temporary licence Standard (0700-1900) <input type="checkbox"/> Premium (anytime) <input type="checkbox"/>	Start Date _____
7. Number of additional badges required, maximum of four additional can be applied for.		
8. Total cost (please refer to attached payment guidance to calculate your costs): £.....		
Guidance notes: <ul style="list-style-type: none"> This application form should be submitted no later than 14 days before the expiration of a previous licence or the proposed date when distribution is intended to commence. In submitting this application, the applicant agrees to adhere to the attached conditions of licence. Full payment for the licence applied for must be enclosed when returning this application 		
I confirm that I have read and agree to abide by the conditions below and enclose payment for the licensing approval, issuing and enforcement processes.		
Signature of person making this application: _____ Date:_____		

This form must be returned to:

Brighton & Hove City Council

City Enforcement Team

The Hollingdean Depot

Upper Hollingdean Road

Brighton, BN1 7GA

Telephone: 01273 292929

Fax: 01273 294742

website: www.brighton-hove.gov.uk

Email: Flyering@brighton-hove.gov.uk



Leicester
City Council

DISTRIBUTION OF FREE PRINTED MATTER APPLICATION FORM

APPLICATIONS SHOULD BE SUBMITTED NO LATER THAN 10
WORKING DAYS BEFORE REQUESTED DATE OF DISTRIBUTION

APPLICANT DETAILS	
Name	
Address	
Post code	Fax number
Contact name	Email address
Telephone	Mobile
Have you received/paid any Fixed Penalty Notices within the last three years relating to the distribution of free literature? If yes, please provide details on a separate sheet and attach to this application.	
Have you had any convictions within the last three years relating to the distribution of free literature? If yes, please provide details on a separate sheet and attach to this application.	
BUSINESS BEING PROMOTED	
Name	
Nature of business	
DETAILS OF APPLICATION	
Location(s) where you wish to distribute free printed matter	

Type of material that you wish to distribute
Number of distribution badges required
Dates requested
There is a presumption by Leicester City Council against issuing consents for entertainment venues. If you are applying for a licence to distribute printed material which promotes an entertainment venue please explain why you believe a consent should be issued.
DECLARATION
I declare that the information given above is true to the best of my knowledge, and that I will comply with the terms and conditions of any consent to distribute free printed matter granted by Leicester City Council as a result of this application.
Signature of applicant
Print name
Date
Please send this application with the fee of £103 + relevant additional fee (see overleaf) to: Licensing Leicester City Council New Walk Centre Welford Place Leicester LE1 6ZG.
Alternatively you may deliver it by hand to Customer Services in B Block of New Walk Centre, the entrance for which is on King Street.

Additional fees	
If consent is granted, the following additional fees are payable prior to issue:	
Annual consent	Fee £
Each authorised distributor	26
Licence fee for annual consent	1,035
Limited period consents	Fee £
Each distributor per day	26

DISTRIBUTION OF FREE PRINTED MATTER

APPLICATION FORM

Applications should give 7 days notice of proposed commencement date. A fee is payable and payment must be enclosed with the completed application form. - See guidance notes.

See "Guidance Notes for Applicants" for more information regarding this application including conditions that may be applied.

1.	Name of Organisation:	
	Company Number if Limited Company:	
	Address:	
	Contact Name:	
	Telephone No:	
	Fax No:	
	Name of proposed consent holder (an individual or ltd company):	
	Name of company/business (if different from above)	
	Address of proposed consent holder: (if different from above)	

Please provide the following information.

2. Upon which days of the week do you wish to distribute free printed matter (please tick all that apply).

Monday	<input type="checkbox"/>	Friday	<input type="checkbox"/>
Tuesday	<input type="checkbox"/>	Saturday	<input type="checkbox"/>
Wednesday	<input type="checkbox"/>	Sunday	<input type="checkbox"/>
Thursday	<input type="checkbox"/>		

3. What times of day do you wish to distribute free printed matter? Please list the time for each day and ticked in question 2 above.

4. To be answered by entertainment venues.

Maximum Occupancy figure

5. To be answered by all other applicants other than entertainment venues.

What is the nature and location of your business?

6. If you are distributing matter for other organisations or venues/clubs please list

7. In which area(s) do you wish to distribute free printed matter (see plans attached to the application form i.e. areas 1 to 5, please tick all that apply)

Area 1	<input type="checkbox"/>
Area 2	<input type="checkbox"/>
Area 3	<input type="checkbox"/>
Area 4	<input type="checkbox"/>
Area 5	<input type="checkbox"/>



8. Have you, your organisation or anybody working on behalf of your organisation been convicted of an offence under paragraph 1 of Schedule 3A to the Environmental Protection Act 1990? **Yes/No (please delete as appropriate).**

If yes please provide more detail:

9. Have you, your organisation or anybody working on behalf of your organisation paid a fixed penalty notice for the distribution of free literature without consent in a designated area, within five years preceding the date of this application? **Yes/No (please delete as appropriate).**

If yes please provide more detail:

Name: Capacity or
Position in Organisation

Signature: Date:

Please complete all sections and return, together with your fee. Cheques should be made payable to "Nottingham City Council" and sent to Public Health, Lawrence House, Talbot Street, Nottingham NG1 5NT

Note: **Nottingham City Council need not give consent to any Applicant where it considers that the proposed distribution would in all the circumstances be likely to lead to defacement of the designated land and the licence fee will not be refunded if consent is not granted.**



Consent to Distribute Free Printed Matter APPLICATION FORM



Please refer to the Guidance Notes when completing this application form. Once fully completed, return it with the correct fee to Solihull Metropolitan Borough Council, Environmental Health, Council House, Solihull, B91 3QT. If you require any assistance, please telephone 0121 704 6833.

The Applicant

This section relates to the person that will be known as the "Consent Holder" and must be completed in full.

Name		
Date of Birth		
Address		
Email		
Telephone Numbers		

Printed Matter

This section relates to the printed matter that will be distributed and you may be asked to provide a copy as part of your application.

Type of Material <i>e.g. flyer or business card</i>	
Purpose of Material <i>e.g. Sale or car boot at xxx</i>	

Distribution

This section relates to the dates and times that distribution will take place, and the number of distributors deployed. Please continue overleaf if necessary.

Date	Times	Number of "Distributors"
	Between 0900 – 1700	
	Before 0900 or after 1700	
	Between 0900 – 1700	
	Before 0900 or after 1700	
	Between 0900 – 1700	
	Before 0900 or after 1700	
	Between 0900 – 1700	
	Before 0900 or after 1700	
	Between 0900 – 1700	
	Before 0900 or after 1700	

Fee Calculator

Please ensure that the correct fee is enclosed, and make cheques payable to "Solihull MBC".

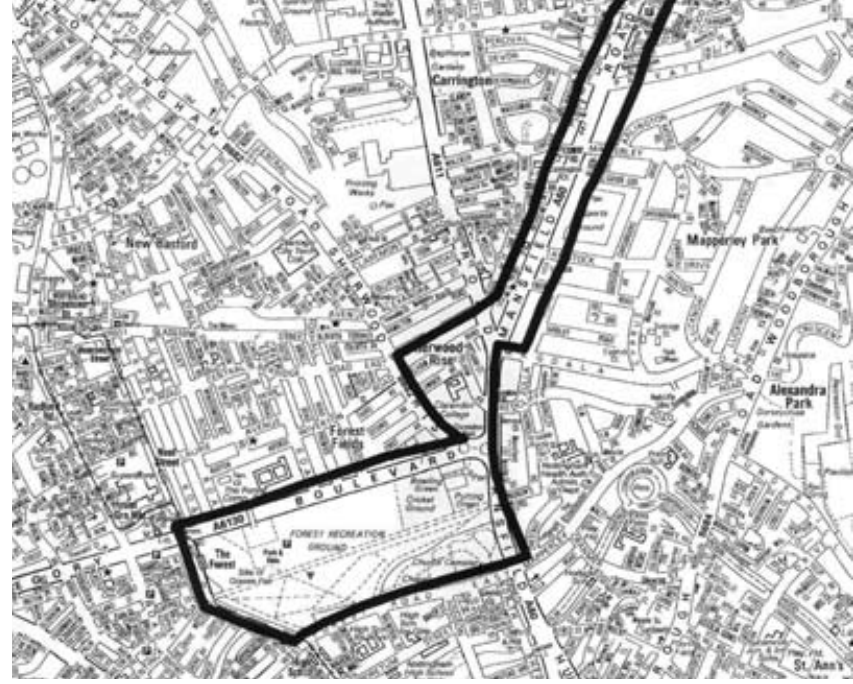
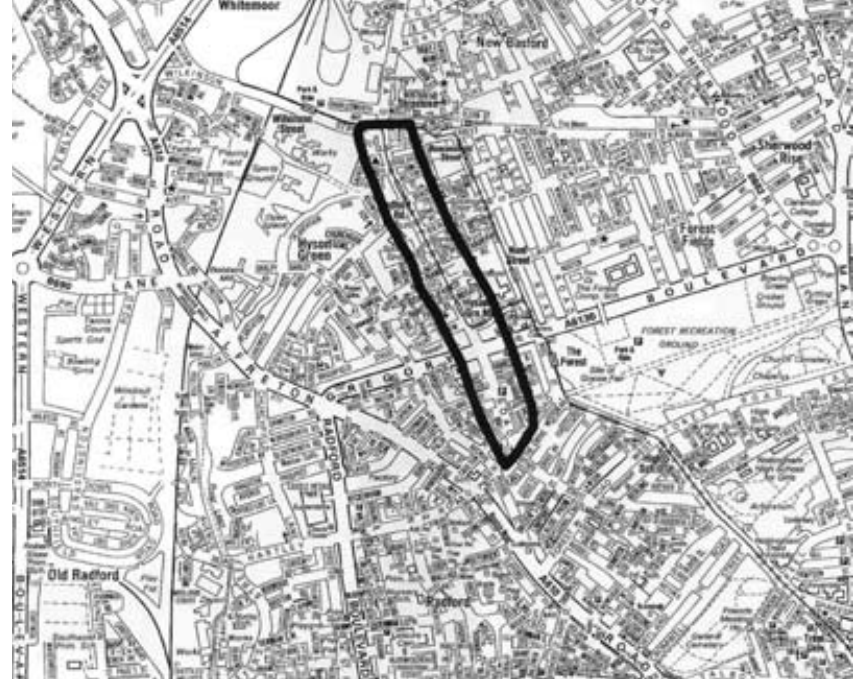
1	Basic application fee (which includes a single distributor deployed between 0900 and 1700 for a single day)	£50	£50
2	Number of additional distributors deployed between 0900 and 1700 on that same day	_____ x £25 =	£
3	Number of distributors deployed for each additional day between 0900 and 1700	_____ x £25 =	£
4	Number of times a distributor will be deployed prior to 0900 or after 1700	_____ x £25 =	£
	Total 1+2+3+4 =		£

Declaration

Should consent be granted, I undertake to comply with the standard conditions imposed as listed on the Guidance Notes.

Signed:

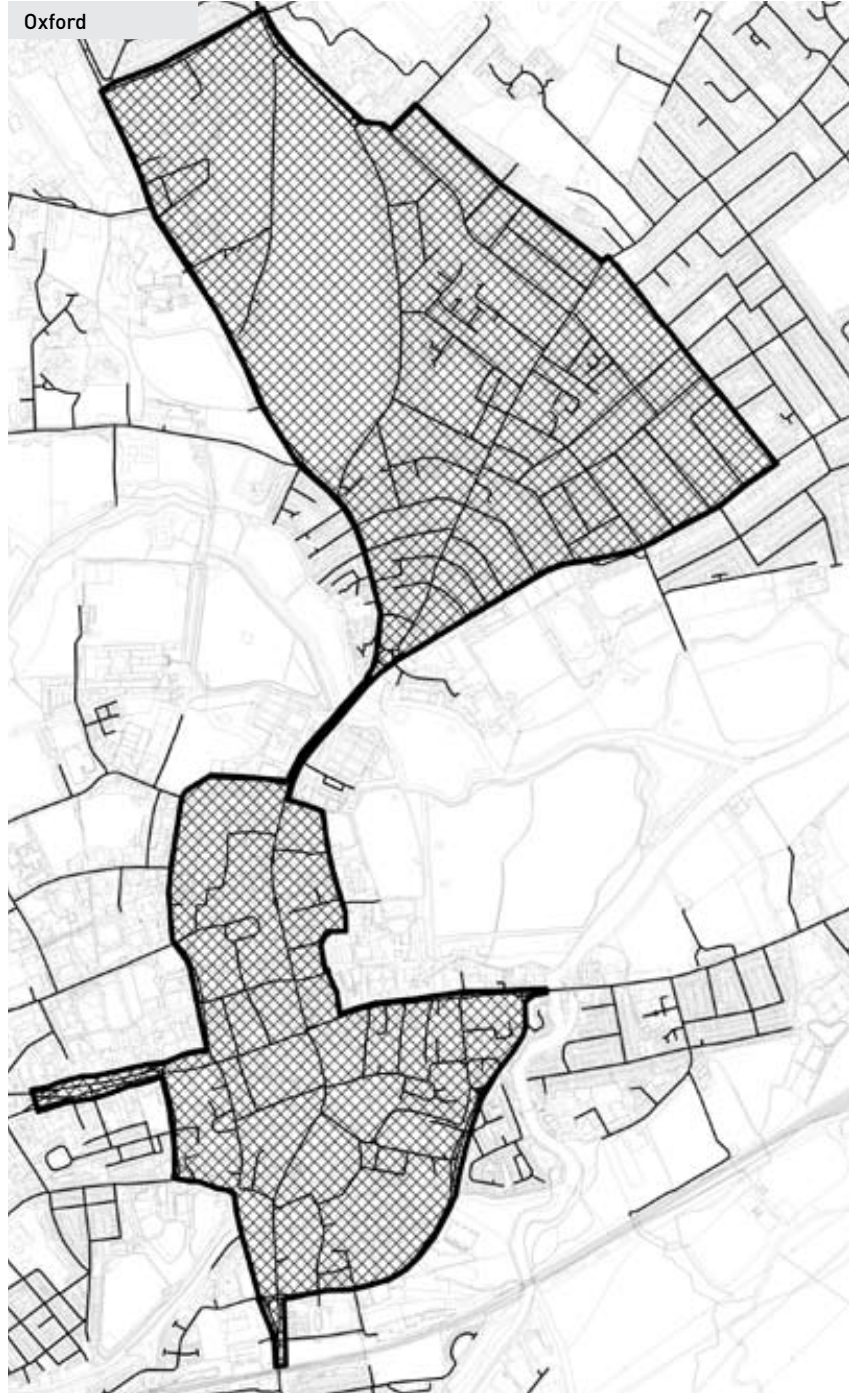
Date:

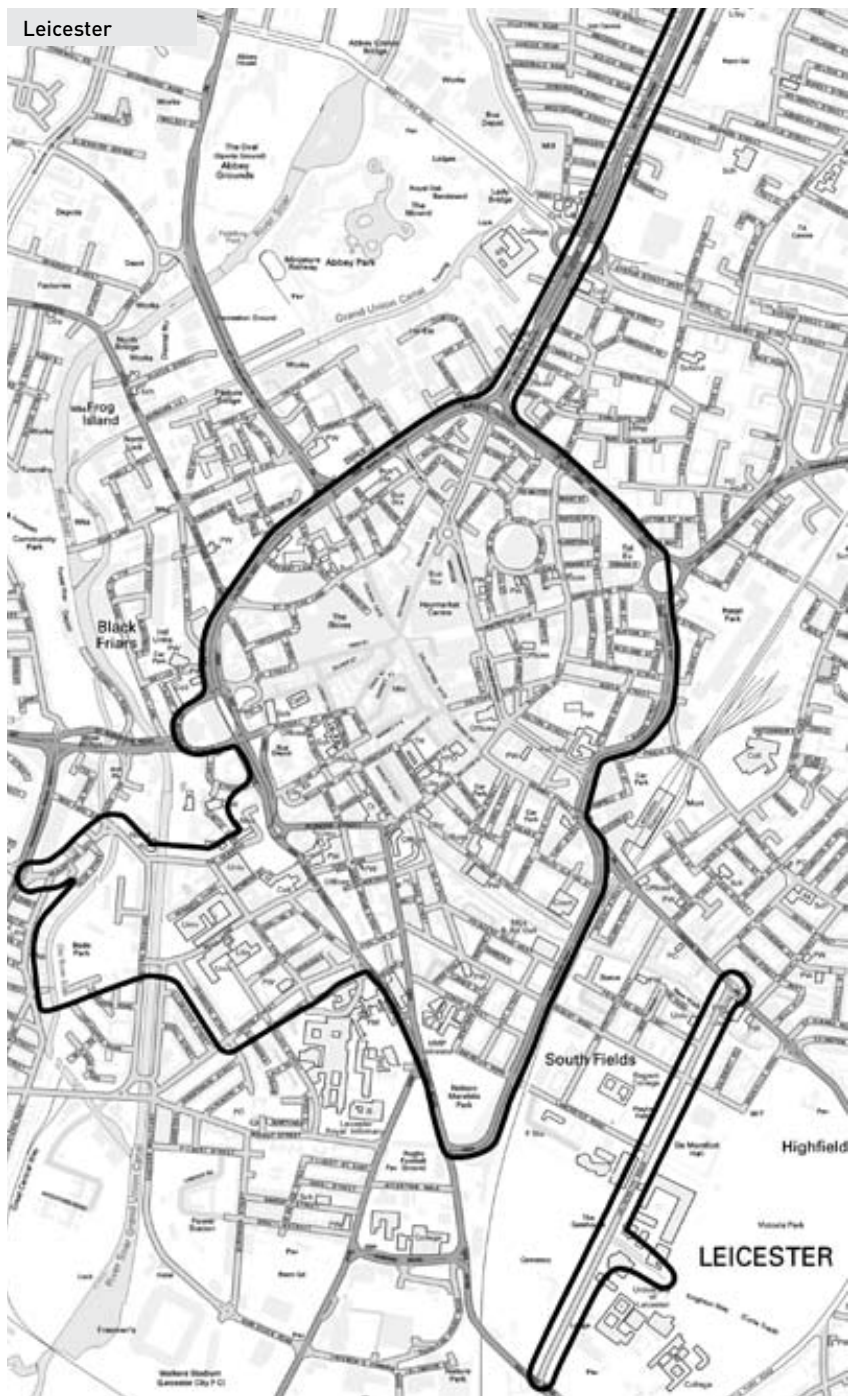


Brighton



Oxford





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About the Author

Josie Appleton founded and is director of the Manifesto Club. She coordinates the club's campaigns for freedom in everyday life, including campaigns against vetting, booze bans and photo bans. She writes articles and essays about contemporary freedom issues (from the French burqa ban to drinks regulation), and seeks to develop a political theory of contemporary state regulation and the rebellion against it.



About the Manifesto Club

The Manifesto Club campaigns against the hyper-regulation of everyday life. We support free movement across borders, free expression and free association. Our rapidly growing membership hails from all political traditions and none, and from all corners of the world. To join this group of free thinkers and campaigners, see: www.manifestoclub.com/join

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* www.pearshapedcomedy.com/ban_history.html

Colophon

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A Manifesto Club Report

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Over the past few years it has become almost impossible to hand out leaflets in many UK town and city centres. Using powers contained in the Clean Neighbourhoods and Environment Act 2005, local authorities have introduced leafleting zones within which people must buy a licence if they want to flyer. These rules have been catastrophic for village halls, circuses, political campaigners, comedy clubs and nightclubs.

This report charts the rapid spread of these unnecessary rules, and defends the right to leaflet as one of the key civic freedoms. We call for a review of local authorities' no-tolerance policies, and for a more liberal regime that recognises leafleting as part of a free and vibrant civic life.