

Advertising and Sponsorship Policy

Report by Kevin Anderson, Executive Director - Place

Report for Decision

1 Recommendations

Council is recommended to approve the Advertising and Sponsorship Policy.

2 Purpose of Report

The purpose of this report is to provide policy on proposals for

- (i) advertising by third parties which would be installed on assets directly owned by the Council, and
- (ii) third party sponsorship of Council events or initiatives.

Date: 8th June 2023
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3 Background

- 3.1 This policy aims to:
- establish a corporate approach and standards to guide the consideration of proposals for advertising and sponsorship as set out in this policy;
 - establish governance arrangements that ensure that future advertising and sponsorship proposals are considered by appropriate Council directorates/divisions prior to approval;
 - ensure the Council complies with its legislative obligations, and Council policies, and is also guided by relevant nationally recognised industry codes;
 - support the Council's strategic objectives;
 - support the Council securing Best Value and maximisation of income;
 - support the Council's development of suitable commercial partnerships;
 - uphold the Council's reputation and brand;
 - support the safeguarding of citizens' interests and their well-being, and the image and environment of those elements of the local authority area which are within the control of the Council, and not the subject of separate regulation or control; and
 - support the alignment of the Council's involvement in advertising and sponsorship to the Council's corporate social responsibility.
- 3.2 Advertising and sponsorship can encompass goods, services, ideas, causes, opportunities, prizes and gifts.

4 Advertising

- 4.1 Advertising is a form of communication used to raise awareness, encourage or persuade an audience - viewers, readers or listeners or a specific group of people - to do or believe something. Advertising is usually paid for by an organisation.
- 4.2 Advertising messages can take a variety of forms and can be viewed through a wide range of media and platforms including, but not limited to, newspapers, magazines, television commercials, radio advertising, out of home advertising, direct mail, online and digital such as paid social media, blogs and other electronic platforms. Advertising mediums change rapidly in the digital and electronic age.
- 4.3 This policy aims to be sufficiently flexible to encompass platforms which are yet to be developed.
- 4.4 The Council seeks to generate and maximise income from Council-owned assets.
- 4.5 This policy is intended to cover third party advertising which would be installed on assets directly owned by the Council, but not advertising in public realm areas, park and greenspace and Council-owned

development/brownfield sites which are subject to separate contractual agreements.

- 4.6 The Council uses advertising for a range of activities which promote the Council's commitments and strategic objectives, and ultimately enhance and maintain the Council's reputation. When undertaking such advertising, be it on assets owned by the Council or by third parties, the Council already adheres to existing relevant nationally recognised industry codes, legislation, regulations and Council policies. This practice would continue.

5 Sponsorship

- 5.1 To sponsor something is to support an event, activity, person or organisation financially or by providing products or services. The relationship should be mutually beneficial. Sponsorship should not be confused with other types of funding which the Council provides such as grants, and which are not subject to this policy.
- 5.2 Sponsorship is a business relationship between the provider of funds, resources or services and an individual, event or organisation which offers in return rights and association that may have commercial advantage in return for the investment.
- 5.3 There can be cross over between how advertising and sponsorship works in practice. For example, advertising on Council-owned roundabouts may be referred to as sponsorship because the advertising income supports the cost of maintaining those sites. This policy is intended to cover third party sponsorship of Council events or initiatives.

6 Extent of policy application

- 6.1 Subject to the terms of this policy, this policy is not intended to cover (i) pre-existing contractual arrangements the Council has entered into, (ii) any current or future grant funding arrangements entered into by the Council, (iii) any matters which are the subject of separate regulation, for instance matters regulated by separate planning or licensing regimes, (iv) the activities or operations of the Lothian Pension Fund, or (v) the activities of school parent councils.

7 Industry Codes

- 7.1 The advertising industry operates within a heavily legislated and regulated landscape with strict industry codes. The Council will always adhere to the terms of any current legislation and relevant nationally recognised industry codes.
- 7.2 The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising across all online and offline media. The UK advertising codes lay down rules for advertisers, agencies and media owners to follow. The ASA proactively monitors advertising for

compliance as well as responding to complaints, and issues rules on its investigations.

- 7.3 The ASA codes of practice are the 'rule books' which cover two areas: non-broadcast advertising and direct and promotional marketing (CAP code): the central principle of this code for all marketing communications is that they should be legal, decent, honest and truthful. All marketing communications should be prepared with a sense of responsibility to consumers and society and should reflect the spirit, not merely the letter, of the code; and 3.3.2 broadcast media (BCAP code): the overarching principles of this code are that advertisements should not mislead or cause serious or widespread offence or harm, especially to children or the vulnerable.
- 7.4 The ASA codes cover a wide range of guidance including:
- misleading advertising;
 - harm and offence;
 - political advertisements;
 - environmental claims;
 - medicines, medical devices, health-related products and beauty products;
 - weight control and slimming;
 - financial products;
 - gambling;
 - lotteries;
 - alcohol;
 - tobacco, rolling papers and filters;
 - electronic cigarettes; and
 - specific guidance when featuring or addressing children.
- 7.5 The ASA provisions on food, food supplements and associated health or nutrition claims highlights that the ASA rules must be read in conjunction with the relevant legislation which applies to all marketing communications for food products, including the Food Safety Act 1990, the Food Information Regulations 2014 and Regulation (EC) No 1924/2006 on nutrition and health claims made on foods (the EU Regulation).
- 7.6 The ASA code also highlights that:
"Public health policy increasingly emphasises good dietary behaviour and an active lifestyle as a means of promoting health. Commercial product advertising cannot reasonably be expected to perform the same role as education and public information in promoting a varied and balanced diet but should not undermine progress towards national dietary improvement by misleading or confusing consumers."
- 7.7 The ASA codes include specific rules on "HFSS products" ie those food or soft drink products that are assessed as high in fat, salt or sugar in accordance with the Department of Health nutrient profiling model. It also includes guidance on HFSS advertising in proximity to schools.

8 Legislation

- 8.1 Legislation and regulations which have an impact on advertising and sponsorship currently include:
- Local Government Act 1986; and related statutory Code of Recommended Practice on Local Authority Publicity;
 - Town and Country Planning (Scotland) Acts which include regulations which control the display of advertising, such as on billboards.
 - Communications Act 2003 also specifies strict rules to which media service providers must adhere;
 - Supply of Goods and Services Act 1982;
 - Consumer Protection from Unfair Trading Regulations 2008; and
 - Business Protection from Misleading Marketing Regulations 2008.

9 Advertising and Sponsorship Principles

- 9.1 This policy applies to proposals for (i) advertising by third parties which would be installed on assets directly owned by the Council, and (ii) third party sponsorship of Council events or initiatives.
- 9.2 Whether advertising and/or sponsorship proposals within the scope of this policy should be approved by the Council will be decided on a case-by-case basis on the merits of each opportunity or request, as assessed taking into account this policy. Council directorates/divisions assessing such proposals must consult with the appropriate Council specialists set out in section 10.
- 9.3 The Council welcomes opportunities to collaborate with third parties on sponsorship/advertising proposals. The Council does, however, reserve the right to refuse an advertising or sponsorship proposal where such a proposal, including an association with the party in question, may cause reputational damage to the Council or the Midlothian area.
- 9.4 Advertising or sponsorship should not put the Council or the third party in question in a position where it could be said that the proposal may be perceived:
- as seeking to unduly influence the Council; and/or
 - as aligning the Council with any organisation which conducts itself in a way which directly conflicts with Council's strategic priorities and values.
 - In particular the Council will not accept advertising or sponsorship from any party whose primary business activity is activity licensable by Midlothian Council or Midlothian Licensing Board.

- 9.5 An advertisement or sponsorship proposal will not be approved if, in the opinion of the Council, it does any of the following, or might reasonably be perceived as doing so:
- does not adhere to relevant nationally recognised industry codes, legislation or Council policies;
 - may result in the Council being subject to legal proceedings;
 - appears to promote racial or sexual discrimination, or discrimination based on disability, faith, gender or age, or would result in the Council being in breach of its legal obligations;
 - is disparaging any person or class of persons;
 - promotes or incites illegal, violent or socially undesirable acts;
 - promotes tobacco or tobacco related products (such as vaping), weapons, gambling or illegal drugs;
 - is deemed inappropriate for children or young people, eg violent or pornographic imagery;
 - infringes any intellectual property rights, eg trademark, copyright or patent rights, of a third party;
 - includes claims or representations in violation of advertising or consumer protection laws; and/or
 - associates the Council to or lends support to any particular political party or a cause identified with any particular political party.
- 9.6 This advertising and sponsorship policy should be applied alongside existing Council policies and guidance, where relevant, including the Council's Contract Standing Orders.
- 9.7 Council must ensure a return on investment when it is receiving sponsorship.
- 9.8 As regards sponsorship, (i) the proposed sponsorship must support or further the Council's strategic objectives, (ii) reasonable steps must be taken to ensure the party the proposed sponsorship relates to discloses any current regulatory applications/consents relating to them/related organisations/close associates in respect of the Council area, or if they are involved in any current dispute with the Council or if there are outstanding debts owed to the Council, (iii) a suitable risk assessment must be conducted in respect of the event or activity in question, and (iv) the Executive Director of Children, Young People and Partnerships must be consulted should any proposed sponsorship event or activity be focused on children or young people.
- 9.9 There must be no risk of misperception that the party the sponsorship arrangement is with will be looked upon sympathetically for other purposes such as access to elected members outside the sponsored event or activity, and the sponsorship proposal must secure Best Value with any benefits conferred by it being proportionate.
- 9.10 All sponsorship or advertising proposals shall be the subject of a suitable agreement between the Council and the third party in question.

- 9.11 The use of Council branding and logos, and any other intellectual property of the Council, by any third party is not permitted except with the prior written agreement of the Council and must adhere to the Council's brand guidelines.
- 9.12 The size and positioning of third party logos on any Council promotional material, goods or signage must be considered by the appropriate lead officer in consultation with the Council's communications team. It must not impinge on safety.

10 Responsibility for Approving and Monitoring

- 10.1 The Chief Officer – Place is responsible for approving an advertising or sponsorship proposal. The Officer must make sure that any proposed arrangement does not constitute unlawful financial aid or is not permitted under relevant legislation, regulations, nationally recognised industry codes, existing Council policy and guidance, including in terms of this policy. Available assets/events will be advertised and offers invited for specified time periods.
- 10.2 An officer may only offer or accept advertising or sponsorship proposals on the Council's behalf with authorisation from the Chief Officer - Place, and after having consulted with the following specialist Council teams: Planning Service, Legal Services, Procurement, and Property & Facilities Management.

11 Resource

Staffing to facilitate the project will be managed from existing resource.

12 Digital

Information on the approved actions will be displayed on the Council's website and social media channels.

13 Risk

Advertising and sponsorship provides the Council with an additional income and/or assistance to assist in the undertaking of core activities. Failure to engage in this results in additional strain on existing resources.

14 Ensuring Equalities

No equality impact assessment has been considered necessary in the implementation of this Policy.

15 Additional Report Implications

See Appendix A

APPENDIX A – Report Implications

A.1 Key Priorities within the Single Midlothian Plan

The route map outlines the phases of service recovery and transformation which will underpin the Single Midlothian Plan.

A.2 Key Drivers for Change

Key drivers addressed in this report:

- ☐ Holistic Working
- ☐ Hub and Spoke
- ☒ Modern
- ☒ Sustainable
- ☒ Transformational
- ☒ Preventative
- ☒ Asset-based
- ☒ Continuous Improvement
- ☐ One size fits one
- ☐ None of the above

A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- ☒ One Council Working with you, for you
- ☒ Preventative and Sustainable
- ☐ Efficient and Modern
- ☒ Innovative and Ambitious
- ☐ None of the above

A.4 Delivering Best Value

The report aims to deliver best value.

A.5 Involving Communities and Other Stakeholders

Engagement may be required for advertising on particular assets.

A.6 Impact on Performance and Outcomes

The report aims to measure progress through outcomes.

A.7 Adopting a Preventative Approach

The report is based on the creation of a wellbeing economy which prioritises prevention, fairness for people, the economy and the environment.

A.8 Supporting Sustainable Development

The improvement and enhancement of our environment.