

# Overview and Scrutiny Management Board

5 March 2021



**Report of:** Tim Borrett, Director: Policy, Strategy and Partnerships

**Title:** Draft Advertising and Sponsorship Policy

**Ward:** All

**Officer Presenting Report:** Tim Borrett, Director: Policy, Strategy and Partnerships

**Contact Telephone Number:** 0117 922 2000

**Recommendation:** For the Overview and Scrutiny Management Board to note the final draft Advertising and Sponsorship Policy and High Fat, Salt and Sugar Guidance Note, which will be presented to Cabinet on 09 March 2021.

## **The significant issues in the report are:**

The council does not currently have a single corporate policy setting standards relating to advertising and sponsorship.

The draft policy covers the council's roles in both placing and hosting advertising content, and similarly in seeking sponsorship or acting as a sponsor.

The draft policy introduces new restrictions, including a city-wide restriction on the promotion of High Fat, Salt and Sugar (HFSS) products and alcohol, which carries some commercial risk.

It seeks to strike an appropriate balance of protecting and promoting public health whilst maximising the commercial, social and reputational benefits that advertising and sponsorship can have. It has been updated since OSMB provided initial feedback in November 2020.



## 1. Summary

- 1.1 This report provides an update to Overview and Scrutiny Management Board on the draft advertising and sponsorship policy (Appendix A), following OSMB review and comment on an earlier draft in November 2020. This policy would cover the council as an advertiser or sponsor; and the council as an owner of an advertising platform or sponsorship opportunity which an external individual, group or organisation may wish to take up.
- 1.2 It provides a framework for how the council is promoted and how it promotes others, aligned to our core values and principles. It seeks to establish a consistent approach, through a set of standards and framework of controls that ensure compliance with legislation, advertising industry codes, council policies and guidelines.
- 1.3 The policy aims to ensure that our advertising and sponsorship practice upholds the council's reputation, supports the council's priorities by facilitating communication, secures best value for money and maximises income and supports the development of commercial partnerships.
- 1.4 It is more restrictive than many, having considered the council's Corporate Strategy commitment to 'Health in all Policies'. Since OSMB last saw it, the policy has been updated to restrict high fat, salt or sugar (HFSS) products and alcohol. These restrictions are product-based, not brand-based.

## 2. Context

- 2.1 Advertising and sponsorship has a role to play in both promoting and achieving the council's vision and strategic aims, for example by encouraging positive behavior change or promoting vital public health messaging. Of course it must achieve this whilst also contributing to the council being a sustainable, resilient local authority, making the commercial elements of income-raising and return on investment also important.
- 2.2 The council has no current corporate advertising and sponsorship policy in place, but does have several contracts which relate to it. The draft policy does not require historical arrangements to be immediately updated, but for any existing advertising or contractual arrangements to be reviewed at next available juncture.
- 2.3 OSMB has previously provided comment and gave a view that it supported a more restrictive policy approach, acknowledging this may incur a financial risk which OSMB believed would be offset by public health benefits. A potential income risk of up to £150,000 has been identified. This is an estimate based on current annual values and industry benchmarking of the most popular 'out of home' advertising categories. It should be noted that in London, where similar HFSS restrictions were implemented across Transport For London, income was not negatively impacted during its first full year of operation.

## 3. Policy

- 3.1 The full details of the policy are not set out in this cover report as they are self-explanatory and available in full within the draft Advertising and Sponsorship Policy at Appendix A.
- 3.2 Since OSMB last commented, further policy development has been undertaken, with the resulting updates:
  - Restrictions were added relating to alcoholic drinks and to broaden restrictions on advertising high fat, salt or sugar food and drink to become city-wide (on council-owned or controlled sites). A Policy

Guidance Note (Appendix B) was produced in support of introducing these restrictions.

- A proposed restriction on gambling was amended to note an exclusion for the National Lottery and social lotteries.
- Wording around decision making was amended and clarified. If the Policy is approved, this will be supplemented with clear internal communications and guidance accompanying its launch.
- The Policy was amended to clarify whether it applies in partnerships and for council owned companies.

- 3.3 Representations and comments relating to planning policy and property strategy, including the impact of advertising screens on light pollution, have been passed to the relevant Directors and Cabinet Member for attention and will help inform work on the Local Plan.
- 3.4 Consideration was also given to additional advertising restrictions in support of the Council's environmental aims. In the absence of any suitable national standards or local authority precedents, the Council would need to identify and restrict particular industries, goods or services. Because it would be the first authority to do so, formal public consultation would be necessary. Any such consultation would not be possible until after local elections due to national restrictions during pre-election period. The consequence of doing this would be to delay implementing any policy until much later in 2021, by which time the Council would have missed the opportunity to put the policy in to action on at least one of its larger advertising concession contracts, with no further practical chance to do so for several years. Taking this context in to account, Cabinet will be recommended to approve the Policy without such restrictions, but work should continue with city partners to explore practical options for environmentally friendly advertising standards and how this could be applied more broadly in the city. In the meantime, alternative methods of making a positive difference can be explored during advertising-related procurement exercises; for example, the possibility of requiring digital advertising spaces to be powered by renewable energy sources; fleet vehicles servicing advertising sites being electric vehicles etc.
- 3.5 The policy operates within a wide range of existing legislative requirements and codes of conduct, including the Advertising Standards Authority (ASA) UK Code of Non-broadcast Advertising and Direct & Promotional Marketing; the Government's Code of Recommended Practice on Local Authority publicity; the Equalities Act 2010; the Gambling Act 2005; the Local Authority Supply of Goods and Services Act 1970; the Bristol City Council Brand Guidelines; the Town and Country Planning Act 1990 and the Data Protection Act 2018.
- 3.6 There is no formal requirement for the council to have a defined advertising and sponsorship policy.
- 3.7 If approved, the final Advertising and Sponsorship Policy will form part of the council's Policy and Strategy Framework. As part of its development work is being undertaken to align it to related policies, such as the council's approach to Ethical Investment.

## **4. Consultation**

### **i. Internal**

The draft policy has been developed in engagement with several internal departments, including but not limited to:

Transport, Parks and Green Spaces, Public Health, Planning, Legal Services, Strategic Procurement and Supplier Relations, Policy and Public Affairs and Equality and Inclusion.

## ii. External

The draft policy has not been subject to public consultation.

Engagement has been undertaken with an advertising consultancy and, indirectly via contract managers, with suppliers. The consultant's view is that a more restrictive policy brings commercial risk and would negatively impact on the attractiveness of future tenders for advertising. They shared the common industry view that HFSS should only be restricted via legislation and that it can be difficult to define. The issue of 'definition' is addressed within the policy and additional guidance note and will mean some products not typically thought of as 'junk food' would nevertheless be restricted.

The Council has also engaged with Sustain, a registered charity which advocates food and agriculture policies and practices that enhance the health and welfare of people and animals. This engagement relates to the proposed HFSS restrictions, as Sustain worked with the Mayor of London's Office to implement similar restrictions on Transport for London.

## 5. Public Sector Equality Duties

- 5a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
  - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
    - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
    - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
    - tackle prejudice; and
    - promote understanding.
- 5b) The above requirements will be considered in making any decision on a final policy and an Equalities Relevance Check has noted no negative impacts requiring a full Equality Impact Assessment. It should be noted that the draft policy takes account of the EA2010 protected characteristics, though replaces 'Gender Reassignment' with more expansive 'Gender identity or gender expression' wording.

### Appendices:

- A – Draft Advertising and Sponsorship Policy
- B – High Fat, Salt and Sugar Guidance Note

## LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

### Background Papers:

- Corporate Strategy 2018-2023 - <https://www.bristol.gov.uk/policies-plans-strategies/corporate-strategy>
- Bristol One City Plan - <https://www.bristolonecity.com/about-the-one-city-plan/>
- The Advertising Standards Authority (ASA) UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP code). <https://www.asa.org.uk/codes-and-rulings/advertising-codes.html>
- Code of Recommended Practice on Local Authority publicity  
<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity>
- The Equalities Act 2010 <https://www.gov.uk/guidance/equality-act-2010-guidance>
- Gambling Act 2005 <https://www.legislation.gov.uk/ukpga/2005/19>
- Local Authority Supply of Goods and Services Act (1970)  
<https://www.legislation.gov.uk/ukpga/1970/39/section/1>
- Bristol City Council Brand Guidelines  
<http://intranet.bcc.lan/ccm/content/articles/corporate/communications/brand-guidelines.en>
- Town and Country Planning Act 1990 <https://www.legislation.gov.uk/ukpga/1990/8/contents>
- Data Protection Act 2018 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>