

DERBYSHIRE COUNTY COUNCIL**CABINET****13 February 2019****Report of the Executive Director Commissioning, Communities and Policy****INCOME GENERATION THROUGH ADVERTISING****1. Purpose of the report**

To seek approval to generate income for Derbyshire County Council (the “**Council**”), through selling advertising space on selected Council platforms, procuring a specialist company to deliver the initiative by a Concession Contract awarded under Protocol 1 of the Council’s Financial Regulations, in partnership with two District Councils in the initial phase.

2. Information and analysis

In line with around 50 other councils across the UK, the Council has the opportunity to achieve its savings targets in the Communications area by generating income through advertising on carefully selected platforms.

An internal precedent for income generation through Communications activity already exists, with the provision of a crisis communications service to schools, which generates in the region of £50,000 per annum.

Income generation through advertising embraces the ‘Enterprising Council’ approach and would see managed advertising appear on the Council’s website, in Derbyshire Now magazine, with the issuing of the Gold Card travel permit and in newspaper / magazine advertising related to the Trusted Trader scheme. It is estimated, through benchmarking against other local authorities, that an income of over £125,000 could be made in the first year of the contract.

Most councils restrict advertising that is not aligned with social value aims, prohibiting areas like gambling, alcohol, fast food and pay day loan companies. It is recommended that the Council follows these principles. Political advertising is prohibited by law on local government websites and intrusive advertising such as pop-ups are also largely banned. An advertising policy for the Council is set out in Appendix 1, which will ensure that only appropriate advertising is carried on Council platforms.

Website advertising

The introduction of advertising to the Council website, and potentially other relevant websites within our control, is one of the main drivers of this approach.

Advertising is now a feature on 52 local government websites – a figure which risen gradually since Hammersmith & Fulham Council were the first to allow advertising in 2009.

In areas where advertising has been allowed, there have been relatively few complaints from residents. This is largely because the use of advertising is so widespread across the internet. Advertising would be placed in agreed areas of web pages and will not detract from the information presented.

A number of factors need to be taken into account when considering advertising on the Council's website:

- Website advertising would act as catalyst for other advertising / sponsorship opportunities, because an advertising sales representative would be able to sell across multiple platforms. While income opportunities exist without website advertising, the potential and efficiency of our model would be greatly reduced to the extent where the model may no longer be viable, because the necessary quantum of opportunities may not exist to justify the resources.
- Local sales could be particularly lucrative in areas like weddings, where the Council has a high penetration of potential customers through our website.
- The advertising policy (Appendix 1) would need to be applied and agreed.

Advertising will be formatted to ensure negligible impact on the performance of the website, and site performance will continue to be monitored by the Communications Team with any required action taken immediately.

It is expected that the website will make around 26% of the income target in the first year of delivery, with that percentage increasing significantly over time.

Derbyshire Now Council Magazine advertising

It is proposed that an equivalent of eight full pages of Derbyshire Now be dedicated to advertising, with the introduction of three regional editions to maximise income generation opportunities (north-east, mid and south Derbyshire).

In order to maintain the space we currently enjoy for Council articles and to keep within postal cost brackets, we propose to add eight pages to the publication and to reduce the physical size of the magazine by a third. This will ensure we do not enter a higher postal weight bracket and will keep the additional annual cost of the publication to the Council to approx. £4,000 per year (mitigated by income).

We expect Derbyshire Now to make around 53% of the income target in the first year of delivery.

Gold card (older and disabled person's travel permit)

This opt-in scheme currently attracts approximately 35,000 people to sign up or be issued replacement cards each year. Promotional materials can be included when cards are issued or replaced at no cost other than production, which would be no more than a few thousand pounds per year (exact cost to be established when number of interested advertisers is known) and would be mitigated by income.

We expect the Gold Card to make around 9% of the income target in the first year of delivery.

Trusted Trader scheme

There are around 1,000 traders registered within the scheme. There are opportunities to promote the scheme in a more commercial way which could include newspaper and magazine advertising placed by the Council, with traders paying to be featured within adverts and / or features in Derbyshire Now online (our e-newsletter).

We expect Trusted Trader to make around 12% of the income target in the first year of delivery.

Recommended delivery model

Gaining income from advertising requires a sales-based operation, targeting companies who may want to take advantage of the offer and significant logistical expertise to manage and deliver the technical and offline requirements. The Council could appoint an existing company to deliver its requirements, or could set up an in-house service.

An in-house service would enable us, over time, to embed commercial advertising expertise within the organisation. However, it would also:

- Be a higher risk model if we underachieve on sales, given the cost of employing staff;
- Be difficult to implement within the council's pay structure given the need to pay a commission based on the sales achieved (which will drive higher income targets);
- Require new resource-intensive processes to manage administration and finance; and
- Require a commercial skillset that does not currently exist within the organisation.

As such, it is recommended that a delivery model is adopted which gives the Council access to commercial expertise, without the risk and overhead costs of employing staff directly.

The preferred approach would be to commission a company with a proven track record of working with councils, to generate income from advertising on a payment-by-results model. A number of such organisations exist and we would expect to pay a commission of between 35% and 25% based on volume of sales.

The procurement of this service falls within the Concession's category. Due to the value of the contract, it will not require advertising in the Official Journal of the European Union (OJEU), but will require advertising on Source Derbyshire and Contracts Finder.

Clear requirements for reporting, auditing and payment will be laid out in the Procurement documents, with the contract managed by Communications & Customers and offered initially on two year contract term, with the option for the Council to extend for a further year.

Partnership pilot with North-East Derbyshire and Bolsover District Councils

Once established, this income generation model may provide an opportunity for district councils to utilise their assets in a similar way in partnership with the Council.

In order to test this, North-East Derbyshire and Bolsover District Councils will join the Council in the procurement exercise, in order to deliver advertising on their own platforms. Their requirements will be part of the Council's tender documents, but all councils will hold their own contracts with any chosen supplier.

In this pilot phase, no commission or payment will be taken by the Council from the District Councils whilst the success of the model for both the Council and Districts is tested. Should income targets be met for all organisations involved, consideration will be given to widening participation to other District Councils, with consideration also given to the Council charging a commission to the Districts, in future phases of any ongoing process.

3. Financial Considerations

If Cabinet chooses to adopt the recommended model, there will be no additional cost to the Council other than staff time to run the procurement process (Procurement Team), support to the Supplier for ongoing implementation (Communications Team) and to manage the contract (Communications & Customers).

The addition of 8 pages into Derbyshire Now magazine, and the creation of regional editions, will cost an extra £4,000 per annum, which will be taken from the income gained. The production of leaflets to accompany the Gold Card will cost a maximum of a few thousand pounds each year (the exact cost will be established when the number of interested advertisers, and hence the size of the leaflet, is known) and will be met either by the Supplier (depending on the proposal of the chosen Supplier) or will be taken from the income gained.

The cost of the placing of Trusted Trader advertisements (likely to be in the hundreds of pounds, but dependent on advertiser interest) will be met by the Supplier or taken from income gained (depending on the proposal of the chosen Supplier).

The Supplier will take a commission expected to be between 25 – 35% (dependent on the proposal of the chosen Supplier) of the income gained from hosting the advertising. This commission is not included in the Council's income target.

An income target of £125,000 has been set in the first year of the contract, based on benchmarking and initial projections. Income will be reported on a monthly basis by the Supplier to allow the ongoing success of the model to be assessed and progress towards the income target monitored.

4. Legal Considerations

Section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do. This power can be used for commercial purposes or otherwise. The Council may exercise this power for the benefit of the authority, its area, or persons resident or present in its area.

Furthermore, where the Council's assets (including but not limited to websites, Derbyshire Now, the Gold Card and the Trusted Trader scheme) are made available to third parties for commercial purposes, that arrangement would amount to the letting of a concession contract. The Concessions Contracts Regulations 2016 require that contracting authorities competitively procure such contracts where the estimated value exceeds the threshold (currently) of £4.551m. As the value of this proposed arrangement is below the Concessions OJEU threshold, no such competitive procedure is required. However, the proposed

Concession Contract must nonetheless be awarded in accordance with the Council's Financial Regulations.

5. Other considerations

In preparing this report the relevance of the following factors have been considered: financial, human resources, human rights, equality of opportunity, health, environmental, transport, property, crime and disorder and social value considerations.

6. Key decision?

No

7. Is it necessary to waive the call-in period?

No

8. Officer recommendations

That Cabinet approve:

6.1 The principle of generating income through advertising at the Council;

6.2 The appointment of an external company to deliver this opportunity, paid on a commission basis through the award of a Concessions Contract awarded under Protocol 1 of the Council's Financial Regulations; and

6.3 North-East Derbyshire and Bolsover District Council's inclusion in the initial phase as a pilot, with a view to potential expansion to other District Councils in the future (with future approval of District Council involvement being delegated to the Executive Director for Commissioning, Communities & Policy).

Emma Alexander
Executive Director for Commissioning, Communities and Policy

Appendix 1

Derbyshire County Council Advertising and Sponsorship Policy 2019

1. Background

- 1.1 The purpose of this policy is to give guidance on the principles and procedures relating to any advertising or sponsorship carried by Derbyshire County Council.
- 1.2 The application of the principles of Derbyshire County Council's advertisement and sponsorship policy are context-dependent and will, at times, require subjective judgements. These will be communicated to advertisers upon request as reasonably required.
- 1.3 The standards and procedures contained herein are consistent with Derbyshire County Council's advertising and sponsorship objectives:
 - i. To ensure that our position and reputation are adequately protected in advertising and sponsorship agreements.
 - ii. To ensure that we adopt a consistent and professional approach towards advertising and sponsorship.
 - iii. To ensure best value is obtained and provided in sponsorship arrangements, including any arrangements made where we receive either money or a benefit in kind.
 - iv. To protect members and individual officers from allegations of inappropriate dealings or relationships with advertisers and sponsors.
 - v. To ensure the council consistently implements its commitment in relation to the Local Government Declaration on Sugar Reduction and Healthier Foods.
- 1.4 Advertisement
 - i. For the purposes of this policy, advertising is defined as the following: "an agreement between Derbyshire County Council and the advertiser where we receive money for the placing of an announcement in our publications, on our website, our intranet and other physical sites (including but not limited to: billboards, hoardings, printed materials and vehicles), from an organisation or individual for the act or practice of calling public attention to one's product or service or to raise awareness."
 - ii. This policy clarifies the standards for approval of advertisements.
 - iii. The regulation of advertising in the UK is the responsibility of the Advertising Standards Authority (ASA). The ASA applies the Advertising Codes [<http://www.cap.org.uk/Advertising-Codes.aspx>]. Any requirements listed herein are to be regarded as in addition to those required by the ASA UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code).
 - iv. Derbyshire County Council values advertising revenue and will work to maximise this income stream. Some forms of advertising may be accepted but restricted to certain channels and / or pages on our website and other named publications / opportunities.

A maximum level of advertising will be set for each channel and intrusive advertising will be avoided.

- v. The appearance of advertisement on any council publication is not an endorsement by Derbyshire County Council of that company, product or service. In order to make this clear all publications with advertising should carry the 'Disclaimer Notice' (Annex 1).

1.5 Sponsorship

- i. For the purposes of this policy, sponsorship is defined as the following: "an agreement between Derbyshire County Council and the sponsor, where we receive either money or a benefit in kind for an event, campaign, or initiative from an organisation or individual which in turn gains publicity or other benefits."
- ii. This policy sets the terms upon which sponsorship may be both sought and accepted by Derbyshire County Council.
- iii. We will actively seek opportunities to work with both local and national organisations by identifying sponsorship opportunities of mutual benefit and which are in keeping with our strategic priorities and core values.

2. Standards for approval of advertisements

2.1 Advertisements carried by Derbyshire County Council will not conflict with:

- i. Relevant ASA Advertising Codes.
- ii. Consumer Protection from Unfair Trading Regulations 2008.
- iii. Equality Act 2010.
- iv. The Code of Recommended Practice on Local Authority publicity. [<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity>]
- v. The council's policies, cores values or the stated aims and priorities as set out in the Council Plan.
- vi. Additional required standards as outlined below [2.2-2.3].

2.2 Advertising will not be accepted if it promotes any of the following:

- i. Weapons, violence or anti-social behaviour of any description.
- ii. Pornography and sexually explicit services and products.
- iii. Loans and speculative financial products.
- iv. Gambling products, services or organisations.
- v. Cosmetic surgery.
- vi. Tobacco and related products, including e-cigarettes / vaping.
- vii. Alcohol.
- viii. Unproven health and weight loss products e.g. weight loss pills.
- ix. Directly or indirectly, food and non-alcoholic drink which is high in any of fat, sugar and salt ('HFSS' products), according to the Nutrient Profiling Model managed by Public Health England. In any case of doubt, it is for the advertiser to show that their product is not HFSS, their advertisement is not promoting HFSS products or there are exceptional grounds. (See annex 2 for further guidance).
- x. Products that compete directly with our own services.

2.3 Advertising will not be accepted if, in Derbyshire County Council's opinion, it is reasonably objectionable on the grounds that it:

- i. Does not comply with the law or incites, provokes or condones someone to break the law (particularly crime, violence and antisocial behaviour).
- ii. Discriminates on the grounds of age, race, colour, national origin, religion or belief, sexual orientation, gender or disability.
- iii. Poses a health and safety risk. For example, as a result of flickering or other visual imagery in the case of digital media.
- iv. Could reasonably be seen as likely to cause pressure to conform to an unhealthy body shape, or as likely to create body confidence issues, particularly among young people.
- v. Originates from a prohibited organisation, namely:
 - Political organisations, lobby and campaign groups.
 - Manufacturers and distributors of tobacco products and / or alcohol.
 - Payday lenders.
- vi. Is inappropriate to display because it is of a sensitive, indecent or obscene subject matter and/or content. For example:
 - It is of a racial, religious or political nature.
 - It affects public support for a political party or a person identified with such a party.
 - It is likely to cause widespread or serious offence to reasonable members of the public on account of the nature of the product or service being advertised, the design of the advertisement, its wording or by way of inference*.
 - It in some way touches on socially contentious issues, contains messages which could be regarded as contentious or a subtext which could cause offense*.
 - It can be considered as mocking of a group or citizens.
 - It depicts adults or children in a sexual manner or displays nude or semi-nude figures in an overtly sexual context.
 - It depicts or refers to indecency or obscenity or uses obscene or distasteful language.
- vii. Conflicts with Derbyshire County Council in so far as it:
 - Appears to compete directly with a council service, income stream and/or the local economy of the area. Examples are out-of-borough further and adult education colleges and adoption/fostering services.
 - Associates the council with organisations in financial or legal conflict with the council.
 - Contains negative references to Derbyshire County Council's services.
 - Is unacceptable for some other substantial reason which Derbyshire County Council will identify and explain as reasonably required.

*Advertisements which promote tolerance, discourage prejudice, and are in line with the Equality Act 2010, will not normally be disapproved on the grounds that they may cause offence or relate to socially contentious issues. Likewise neither will adverts which intend to promote the right to life, liberty or security of the person, or which reasonably promote causes which are not party political.

3. Procedures for advertisement approval

3.1 All contracts for corporate advertising will be managed centrally through the Communications Service to ensure that the best terms are negotiated, that standing orders are not breached and to ensure continuity should the person originally party to the agreement change jobs or leave.

3.2 The Communications Service will need to see and approve:

- i. All advertising before any Derbyshire County Council publication goes to press or any advertisement is displayed in any part of the council or the borough (including in publications in a civil, ceremonial or fundraising role).
- ii. The layout, content and placement of any advertising features or supplements.
- iii. In all circumstances the Assistant Director of Communications & Customers retains the right to disapprove any advertisement or editorial related to advertisements in line with Section 2 of this policy.
- iv. Acceptance of advertising does not imply endorsement of products and service by Derbyshire County Council. In order to make this clear all publications with advertising or sponsorship should carry the 'Disclaimer Notice' (Annex 1).

4. Standards for approval of sponsorship

4.1 Sponsors carried by Derbyshire County Council must operate within all relevant legislation and guidance including:

- i. UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code).
- ii. Code of Recommended Practice on Local Authority Publicity.
- iii. The Business Protection from Misleading Marketing Regulations 2008.
- iv. The Consumer Protection from Unfair Trading Regulations 2008.
- v. Equality Act 2010.

4.2 Derbyshire County Council cannot put itself in a position where it might be said that a partnership has, might have, or may be thought to have:

- i. Influenced the council or its officers or members in carrying out its statutory functions in order to gain favourable terms from the council in any business or other agreement.
- ii. Aligned the council with any organisation which conducts itself in a manner which conflicts with our aims or values.

4.3 Derbyshire County Council is not able to enter into agreements for sponsorships which:

- i. Are in direct conflict with the council's advertising policy.
- ii. Are, at the sole discretion of the Communications Service, considered inappropriate in regard to the organisation, individual or in respect of particular products.
- iii. Involve companies who produce or promote predominantly HFSS foods and / or drinks (according to the Nutrient Profiling Model) including sports drinks, fruit juices and smoothies.
- iv. In accordance with the International Code of Marketing of Breast-milk Substitutes, involve companies who produce or promote infant formula, other infant milks, bottles and teats, and foods marketed as suitable before 6 months of age.

4.4 Sponsorship materials must:

- i. Not detract from Derbyshire County Council's strong corporate identity.
- ii. In their nature and content, be consistent with advertising policy as set out in Section 2.

5. Procedures for sponsorship approval

- 5.1 Before seeking sponsorship, council officers must consider this policy document and follow the guidelines provided. It is recommended that all potential sponsors are referred to this policy.
- 5.2 In accordance with our procurement policy and procedures we may advertise a sponsorship opportunity to potential sponsors.
- 5.3 Sponsorship agreements must be referred to Legal Services for review prior to signing. Before agreeing to any sponsorship opportunity all financial costs must be identified, including the sponsorship equivalent value of any sponsorship in kind.
- 5.4 All sponsorship bids shall be approved by the Assistant Director of Communications and appropriate Cabinet member.
- 5.5 The Communications Service will agree with the sponsor the nature and content of the publicity and will retain the right to approve all advertising material in line with advertising policy.
- 5.6 Acceptance of sponsorship does not imply endorsement of products and service by Derbyshire County Council. In order to make this clear all publications with sponsorship should carry the Disclaimer Notice in Annex 1.

Annex 1: Disclaimer Notice for advertisement or sponsorship

'Whilst every effort has been made to ensure the accuracy of advertisements contained in the publication, Derbyshire County Council cannot accept any liability for errors and omissions. Derbyshire County Council cannot accept any responsibility for claims made by advertisers and their inclusion in [name of publication] should not be taken as an endorsement by Derbyshire County Council.

Annex 2: Guidance for decisions regarding advertising including high fat, salt or sugar food and non-alcohol drinks.

1. Definition of high fat, salt, sugar foods:
 - 1.1 Consistent with the Transport for London advertising policy effective 25 February 2019 the UK Nutrient Profiling Model (NPM) has been adopted by Derbyshire County Council to define high fat, salt and sugar (HFSS) foods.
 - 1.2 Any revisions to the NPM will be reflected in the advertisement decisions made by the council.
 - 1.3 Explanatory guidance for calculating the Nutrient Profile score for food and drink can be found here: <https://www.gov.uk/government/publications/the-nutrient->

[profiling-model](#). It is the advertisers' responsibility to verify the HFSS status of any product featured in their advertisement.

2. Exemptions:

2.1 Advertisements including food and non-alcoholic drink considered HFSS under the NPM may be considered for an exception by Derbyshire County Council if the advertiser or their agent can satisfactorily demonstrate and evidence that the product does not contribute (via HFSS diets) to obesity in children or adults.

3. Decision Table:

Advertisement Content	Outcome	Notes
Only non-HFSS products featured	Approval	Advertisement must also meet standards for approval of advertisements; Section 2.
Only HFSS products featured	Rejection*	
A range of products are featured, including some which are HFSS	Rejection*	A meal or range e.g. meal deal will only be accepted if all products or food items are non-HFSS. Applies across all settings (restaurants, delivery services etc.)
No food or non-alcoholic drink is featured directly, but the advertisement is from a food and non-alcoholic drink brand.	Approval only if the advertisement promotes healthier options, with no HFSS product included*.	Inclusive of ads with brand logos only, directions to a brand's physical, mobile or online presence, or promotional advertising.
Food or non-alcoholic drink is shown incidentally or implied	Probable rejection if the food or non-alcoholic drink can be reasonably considered to be HFSS*	Includes cases in which the depicted food is made from non-food products.
Food and non-alcoholic drink is referenced in text or through graphical representations	Possible rejection if the advertisement can be reasonably considered to promote HFSS food*	Includes cases in which references do not relate to a specific product which can be assessed for its HFSS status.

*[unless a practical exemption has been agreed for the HFSS