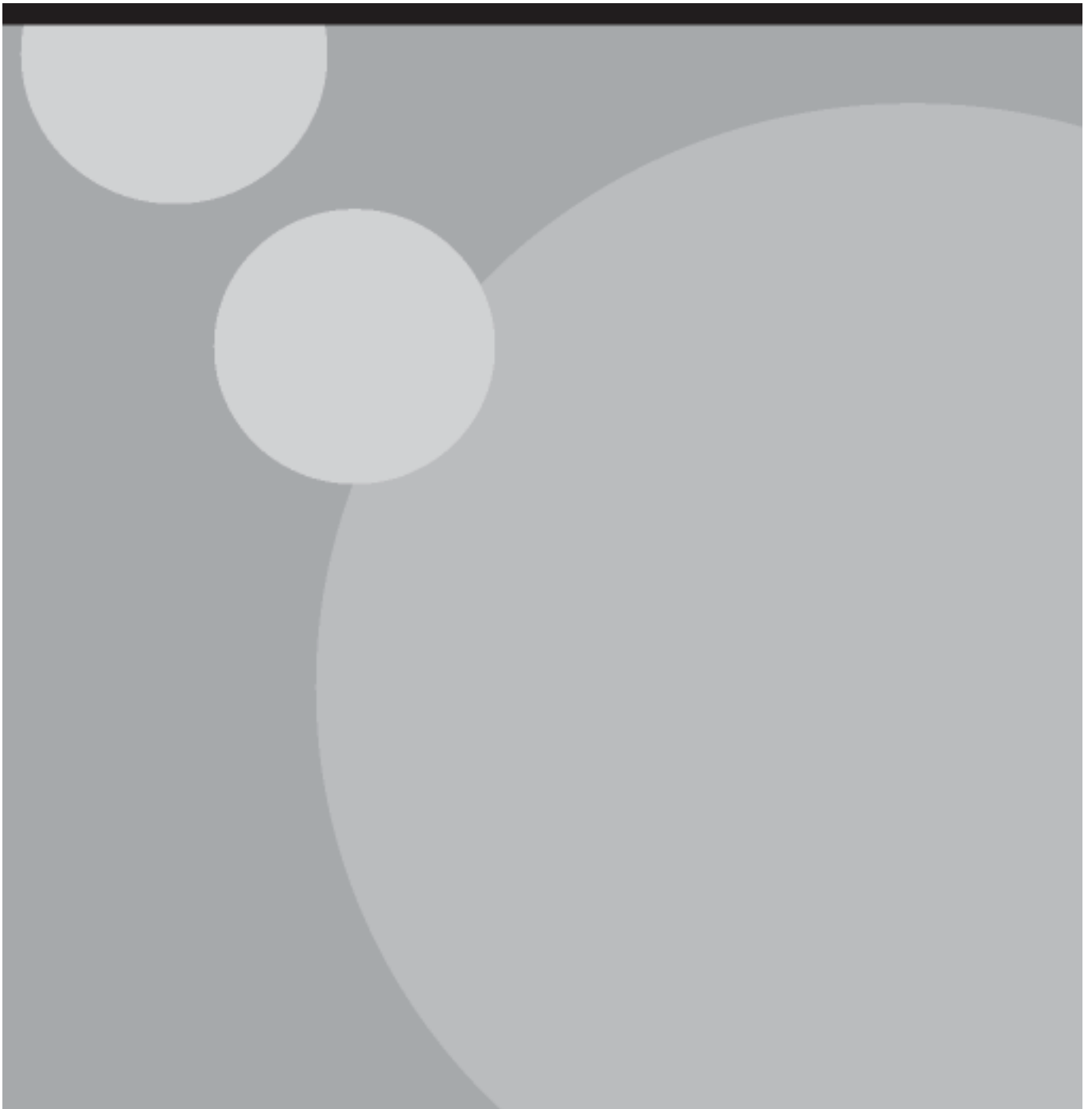




Liberalising the regime for flying flags

Discussion paper



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Introduction

1. The Government wants to streamline the planning regulations that apply to flag-flying to cut bureaucracy and reduce or eliminate the cost of applying for consent. This discussion paper sets out proposals for possible change to secondary legislation in order to achieve this. Comments on these proposals and suggestions about how to achieve the Government's aim would be welcome. Details of how to contribute are at the end of this document.
2. The power of flags to move people is written deep in our culture and they continue to matter. Flags can be an important means of geographic, institutional or cultural expression; and for some businesses flags are a valued mechanism for advertising their presence.
3. Flags deserve respect:
 - They can demonstrate power and identity
 - They can inspire pride
 - They can rally people behind a cause
 - They are a very British way of expressing joy
4. The changes proposed in this document are aimed at finding a way of preserving and encouraging valued flag-flying traditions, while at the same time maintaining safeguards against the unregulated display of flags that could affect local amenity or cause offence.

Policy background

5. Some flags can already be flown without having to seek an advertisement consent from the local planning authority. These include national flags, county flags and the Commonwealth, United Nations and European Union flags. Other flags require advertisement consent. We believe that having to obtain consent can, in many cases, be an unnecessary burden and a barrier to more widespread use of flags.
6. We wish to encourage flag flying by relaxing statutory constraints on the display of flags. Our aim is to provide the broadest scope for this freedom that we reasonably can, so that there is more scope for people, communities, institutions and firms to take advantage of the opportunities that flags offer to express local identity and pride.

Legal background

7. For planning purposes flags are treated as a form of advertising. There are three types of advertisement distinguished under the Town and

Country Planning (Control of Advertisements) (England) Regulations 2007 (“the Control of Advertisements Regulations” or “the Regulations”):

- those for which no consent is required;
 - those for which deemed consent is given; and
 - those for which express consent is required.
8. A flag for which no planning consent is required can be flown without reference to the local planning authority. Deemed consent gives consent for certain types of advertisements so that the local planning authority’s express consent is not needed. It is, however, subject to conditions and limitations, and capable of discontinuance by the local planning authority if a display gives rise to substantial detriment to the amenity of the area. This is the main difference between advertisements with deemed consent and those for which no consent is required.
9. If a flag is not covered by either of these two categories then an application must be made to the local planning authority for an express consent.
10. Advertisements for which **no consent is required** are set out in Schedule 1 to the Regulations: “Classes of advertisement to which Parts 2 and 3 do not apply”. Class H includes:
- any country’s national flag;
 - the flag of the Commonwealth, the European Union or the United Nations;
 - the flag of any English county;
 - the flag of any saint.

Flying of these is conditional upon neither the flag nor the flagstaff displaying any advertisement or subject matter additional to the design of the flag; and, as regards saints’ flags, being displayed only in the county with which the saint is associated.

11. Advertisements that have **deemed consent** are set out in Schedule 3 to the Regulations: “Classes of Advertisement for which Deemed Consent is Granted”.
- Class 7A permits flags with the name and/or the device of the person occupying a building (‘house’ flags) and sales flags (advertising a specific, time limited sale) subject to such a flag being flown from a single vertical flagstaff on the roof of a building, having a character/symbol no higher than 0.75m (or 0.3m in an area of special control) and, in the case of a sales flag, being displayed for a specific event of limited duration.
 - Class 7B gives consent for house builders’ flags.

12. The Government is seeking views on the following proposal: to extend the range of flags that may be flown without express planning permission (but to ensure that all such categories are specified).
13. The objective is to allow a wider range of flags to be flown without express consent by individuals and organisations, to the extent that this is possible without causing harm to local amenity or causing offence. This will save time and money for those wishing to fly flags, and could also encourage more people to do so.
14. We propose that the impact of any change would be reviewed after three years to ensure that flag flying regulations continue to meet the needs of communities and business.

Proposal to extend the categories of flags that do not need consent

15. We propose to amend Class H of Schedule 1 to the Control of Advertisements Regulations to include a wider range of community, regional, national and international flags.
16. The following additional categories of flag could be flown without consent:
 - The flags of Crown Dependencies, the British Overseas Territories, the plain British Red (Civil) Ensign and the British Civil Air Ensign
 - The flag of any international organisation of which the United Kingdom is a member
[this extends current provisions to other international organisations of which the UK is a member such as NATO; it will also permit the flags of international organisations which the UK may wish to join in the future to be flown without the need for additional changes]
 - The flag of any current or historic UK traditional region, county, district, riding, city, borough/burgh, parish, town, village or hamlet;
[this goes beyond English counties and associated saints to include the flags of other geographic areas]
 - The flag of any recognised administrative area in countries outside the UK, such as Australian states;
 - Any heraldic banner of arms or flag granted by Her Majesty's heraldic authorities;
 - Any ensign of Her Majesty's fleet authorised by warrant or statutory instrument for use outside Her Majesty's Naval Service; UK

government service ensigns; and the flags and ensigns of Her Majesty's armed forces (other than the plain White Ensign of Her Majesty's Fleet).

17. We also propose to broaden the scope of Class 7A of Schedule 3 to include other flags which may be flown with deemed consent.
 - The rainbow "Pride" flag;
 - Flags for official environmental award schemes
 - Flags of sports clubs (by people other than the clubs themselves, such as their members and supporters).
18. All of these categories would be qualified as follows (in line with the existing qualification applying to flags that do not require express consent): "Neither the flag nor the flagstaff may display any advertisement or subject matter additional to the design of the flag".
19. Where necessary, those wishing to fly flags would need the permission of their authorised users prior to display (e.g. for any heraldic banner as specified above). Sports clubs would need to give their members or supporters permission to fly their flags. They might choose to give a blanket permission, perhaps via their websites.
20. The current Regulations (Schedule 1 Class H(d)) permit "the flag of any saint" to be flown without planning consent, but "only in the county with which the saint is associated". We propose to remove this class from the existing list of flags which may be flown without planning consent, as the flags involved would in practice fall within the new category specified in paragraph 16, bullet 3.

Changes to the conditions and limitations for flags that have deemed consent

21. The current Regulations giving deemed consent for house flags, such as those of companies and sports clubs, and advertising flags (subject to certain restrictions) require such flags to be flown from "a single flagstaff projecting vertically from the roof of a building". We propose to give additional freedom for the siting of flagstaffs, so that in future the following would be permitted without the need for express consent:
 - An advertisement in the form of a flag attached to a single flagstaff projecting from a building;
[removing the stipulation that the flagstaff must be 'vertical'];
 - Advertisements in the form of no more than two flags on flagstaffs not attached to a building, on any premises

[i.e. an additional flagstaff that may be sited within the curtilage of a building].

- The current Regulations give deemed consent for house flags and advertising flags (subject to certain restrictions) where no character or symbol on the flag is more than 0.75 metres in height (or 0.3 metres in an area of special control). We propose to remove this restriction.

Reducing the cost of planning applications

22. There will still be some flags that will require express consent from the local planning authority. The cost of such applications is currently £335.
23. Local planning authorities may obtain greater value for money by subcontracting the processing of such applications to specialist bodies with expertise in flags and their symbolism. They might want to consider this for both advice and support in dealing with requests for permission to fly flags not permitted under these reforms, if the caseload was sufficient to justify it.

YOUR VIEWS

This paper was published on 6 January 2012. We would welcome your views by 30 March 2012.

Comments on this paper are invited from any interested person, but we would particularly welcome those from:

- Local planning authorities
- Groups and clubs
- Business
- Community representatives
- Individuals.

Please send your views to:

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