



Department for  
Communities and  
Local Government

# Liberalising the regime for flying flags: Discussion paper

Summary of responses

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September, 2012

ISBN: 978-1-4098- 3651-3

# Contents

<b>Summary</b>	<b>2</b>
Discussion paper proposals	2
Overview of responses	2
General comments	3
<b>Outcome of discussion paper</b>	<b>4</b>
Proposal to extend the categories of flags that do not need consent	4
Broaden the scope of Class 7A of Schedule 3 to include other flags which may be flown with deemed consent	5
Changes to conditions and limitations for flags with deemed consent	6
Reducing the Cost of planning applications	7

## Summary

1. The Department for Communities and Local Government published a discussion paper in January 2012 which set out a number of proposed changes to those parts of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (“the 2007 Regulations”) that regulate flag flying in England and was open to comments from 6 January to 30 March. The Government’s aim is to encourage flag flying by relaxing statutory constraints on flags, whilst at the same time maintaining safeguards against the unregulated display of flags that could harm local amenity or cause offence.

2. For planning purposes flags are treated as a form of advertising. There are three types of advertisement distinguished under the 2007 Regulations (which apply to flags):

- those for which no advertisement consent is required;
- those for which deemed consent is given, and
- those for which express consent is required from the local planning authority.

3. A flag for which no advertisement consent is required can be flown without reference to the local planning authority, subject to stated conditions and limitations. 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 injury to the amenity of the area or a danger to the public. The Secretary of State for Communities and Local Government also has powers to make directions restricting deemed consent. This is the main difference between advertisements with deemed consent and those for which no consent is required. Any other flag will require an application for express consent.

## Discussion paper proposals

4. The discussion paper sought views on proposals to extend the range of flags that may be flown without express planning permission by individuals and organisations without causing harm to local amenity or causing offence. The proposals were:

- to extend the categories of flags that do not require consent;
- extend the scope of those that can be flown with deemed consent, and
- make changes to the conditions and limitations for flags that have deemed consent.

## Overview of responses

5. A total of 54 responses were received. Individuals provided just over 50% of all the responses received; local authorities and Voluntary Sector Groups accounted for around 35%, and the remainder came from government departments and private business.

### Responses by type of respondent

Type of organisation	Number of responses
Individuals	30
Councillors/Local Authorities	10
Voluntary Sector Groups	10
Government Departments	2
Businesses	2
Total	54

### General comments

6. The majority of respondents welcomed the Government's proposals to liberalise the flag flying regime in principle, and a number also offered opinions about the details of the proposals. The proposals that attracted the most detailed commentary were in relation to the proposed broadening of the scope of Class 7A of Schedule 3 to the 2007 Regulations (which gives deemed consent to certain flag advertisements) to allow sports clubs' flags to be displayed other than at the sports club's own premises and the proposed changes to the current conditions and limitations over the size of characters used in flag advertising and the projection of flags from buildings.

7. Several respondents also suggested additions to both the list of flags under Class H of Schedule 1 to the 2007 Regulations (no consent required) and Class 7A of Schedule 3 (deemed consent).

# Outcome of discussion paper

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

8. The discussion paper proposed amending Class H of Schedule 1 to include a wider range of community, regional, national and international flags. These are listed in paragraph 16 of the discussion paper.

9. The majority of respondents supported the additions which were proposed and most of these are being taken forward in the final changes. A number of additional suggestions for improvement were put forward, which the Government supports and those to be incorporated in new Regulations are:

- The flags of Saint David and Saint Patrick. These are not in use as national flags and therefore cannot be flown under the current paragraph (a) of Class H of Schedule 1 to the 2007 Regulations. The flags of Saint George and Saint Andrew are recognised as the national flags of England and Scotland and can be flown at present without consent (and this will continue to be the case under the amended Regulations).
- Adding the Armed Forces Day Flag.
- Greater clarity regarding the description of Civil and Military Ensigns (paragraph 16, bullet 1 of discussion paper) by including Civil and Civil Air Ensigns within the category of national flags, and adding a category for the flags and ensigns of HM armed forces.
- The category for current and historic UK area flags has been more clearly defined as:
  - The flag of any island, county, district, borough, burgh, parish, city, town or village within the United Kingdom; and
  - The flag of the Black Country, East Anglia, Wessex, any Part of Lincolnshire, any Riding of Yorkshire or any historic county within the United Kingdom.
- Allowing for the use of the black mourning ribbon where a flag cannot be flown at half-mast (e.g. on an angled flagstaff).

10. In light of representations received, the proposal to permit any heraldic banner of arms or flag granted by Her Majesty's heraldic authorities to be displayed without consent (paragraph 16, bullet 5 of discussion paper) has not been taken forward within the final Regulations. This retains the current position, whereby displaying such flags (where they are not displayed as house flags at the appropriate buildings) requires the express consent of the local planning authority.

11. There was also no substantive objection to removing permission to fly the flag of any saint in the county with which that saint is associated. As noted in the discussion paper, these flags will be covered by the proposed expansion of Class H of Schedule 1 to include current and historic UK area flags. The removal of this category is therefore being taken forward on the basis that the other amendments to the 2007 Regulations will enable a wider range of saint's flags to be flown, including all those that can currently be flown without deemed or express consent.

## **Broadening the scope of Class 7A of Schedule 3 to include other flags which may be flown with deemed permission**

### Flags for official environmental award schemes

12. Proposals to include flags for official environmental award schemes were generally welcomed. Some respondents queried why only “environmental” rather than other categories of official award flags were sanctioned and how we would define which ones were “officially sanctioned”. The Government agrees that this category of deemed consent should be expanded to include certain officially-sanctioned award schemes which have an approved flag. These are Eco-Schools; the Queen’s Awards for Enterprise; Investors in People; the Green Flag Award and Green Flag Community Award schemes; and Blue Flags (for beaches/bathing water and marinas).

### Flags of Sports Clubs (by people other than the clubs themselves)

13. A number of respondents expressed views about the flying of sports flags on three principal grounds. These were that the proposed change could lead to a proliferation of football club flags in residential areas where support is shown for one or several clubs, for example, in London and other cities, and that in such circumstances there is a potential to create issues between rival supporters. There were also suggestions that club sponsors could use the “official” flag design to advertise commercial sponsorship outside of current controls.

14. The Government does not consider that the flying of sports flags will lead to public order issues and the amended Regulations are quite clear that the flags must be for sports clubs, so the risk of abuse by sponsors is low. In addition, the new measures maintain clear limits on the number flag allowed for each property, and in the light of consultation responses, the new freedoms will not extend to designated sensitive areas. In the unlikely event that concerns do arise, local planning authorities and the Secretary of State for Local Government have existing powers under regulations 7 and 8 of the Regulations to restrict deemed consent for certain categories of flag in specific areas or cases.

15. If there is an unacceptable proliferation of a particular class of advertisement in an area, the local planning authority may request the Secretary of State to make a “regulation 7 direction” that the display of advertisements of a Class or description may not be undertaken without express consent in a particular area. If an individual flag (or flags on one site) causes “a substantial injury to the amenity of the locality or a danger to members of the public”, the local planning authority may serve a discontinuance notice under regulation 8 of the Regulations, which would require the advertisement to be removed or the site to stop being used for the display of advertisements. This is subject to appeal to the Secretary of State in a similar way to a refusal of planning permission.

### Rainbow ‘Pride’ flag

16. This proposal attracted relatively few comments. Some respondents, including bodies representing the lesbian, gay, bisexual and transsexual community, supported the proposals. One respondent objected in principle. A number of respondents, however, suggested that in addition to including the Pride flag within Class 7A of Schedule 3 flags

used by other organisations or groups could also be included. A range of flags were mentioned, principally by the Flag Institute, rather than individual groups.

17. After careful consideration of the responses, the Government has decided that the Regulations should include the Pride flag as proposed. Flags of many of the other groups referred to in responses e.g. scouts or church flags can already be flown with deemed consent as “house flags” and would therefore benefit under other measures proposed in the discussion paper which are to be taken forward in the new Regulations to relax some of the conditions and limitations for flags with deemed consent. In addition, the Government will keep under review the inclusion of other specific flags where warranted following future submissions and appropriate consultation.

### **Changes to conditions and limitations for flags with deemed consent**

18. The third main element of the proposals was to give additional freedom for the siting and design of flags with deemed consent. The Discussion Paper proposed the removal of the stipulation that flagstuffs must be vertical and on the roof of a building, allowing one additional flagstaff to be sited within the curtilage of a building (or two, if there was none projecting from the building), so allowing two in total on any one building and removing restrictions on the size of characters or symbols on flags.

19. It was this element of the proposals that provided the most comments with a range of respondents, offering opinions about the individual elements and their cumulative effect. It was felt that the combination of allowing projection of flags from buildings and removing the restrictions on the size of wording allowed on “house flags” would make them considerably more attractive than at present as an advertising tool. As a result, there may be a proliferation of flags advertising individual premises in many central areas and, given no restrictions on size, the likelihood that increasingly large flags would be introduced, particularly where there were many competing businesses.

20. There were comments that the likely proliferation of flags could raise a number of amenity and public safety considerations, including shadowing effects in terms of sunlight and daylight, impact on traffic sight lines/CCTV and noise impacts on nearby residential properties such as flats above shops. There was also comment about the adverse impact of additional flags on conservation areas, the setting of listed buildings and other heritage assets. Comments were also expressed about the impact of these changes on sensitive environments, such as National Parks, Areas of Outstanding Natural Beauty and conservation areas.

21. In the light of these comments the Government agrees that there is scope to amend the original proposals, and under the new Regulations there will be:

- No need for express consent if the flag is attached to a single flagstaff projecting from a building (other than vertically from the roof).
- A restriction of size of flags flown from projecting flagstuffs (other than those projecting vertically from the roof).
- A requirement that flags cannot be flown from projecting flagstuffs within areas of special control and other areas with protective designations.



- Advertisements will be allowed on no more than two flags on flagstaffs not attached to a building, or one on any premises and one freestanding, apart from in areas of special control and other areas with protective designations.
- No restriction on symbol or character size on flagstaffs projecting vertically from a building apart from in areas of special control and other areas with protective designations.

22. The Government believes that these minor changes to the proposals in the discussion paper will still provide selective freedom on the siting of flags, but at the same time take account of comments about controlling the size of flags projecting from buildings, and protect areas with conservation and heritage assets.

### **Reducing the Cost of planning applications**

23. Relatively few respondents commented on this section of the Discussion Paper, which contained no specific proposals for change. There was little support for subcontracting the processing of applications to specialist bodies and it was thought that such a process was not fully in the spirit of the Localism agenda. Also it was noted that the need to subcontract is likely to be reduced given that the liberalisation of the flag flying regime is designed to, among other things, reduce the number of applications for express consent for flags.