

Cardiff County Council

Graffiti Policy

1.0 PURPOSE OF POLICY

- 1.1 The purpose of this policy is to set out Cardiff Council's approach for the management of graffiti, which is to be done through education, enforcement and prevention.
- 1.2 The overall aim of the policy is to ensure that graffiti is removed as quickly as possible and appropriate enforcement action is taken against offenders.

2.0 BACKGROUND

- 2.1 Graffiti is defined as unauthorised writing, drawing or scratches that are scribed, painted or engraved upon walls and other surfaces. It is a crime and is punishable under the legislation listed in Appendix A.
- 2.2 Graffiti can be generally placed into the following categories:
 - Obscene, racist or threatening;
 - Political commentary;
 - Gang related graffiti marking territory, and
 - 'Tags' – the most prominent form in the city
- 2.3 Graffiti has been identified as one of the key environmental issues across the city due to the adverse effects it can have on areas. The presence of graffiti is unsightly and may also contribute to the decline of an area, which can undermine community cohesion and the efforts of public agencies. It can be costly to remove, increase the fear of crime, decrease local investment in regeneration and cause depreciation of property values. It can be particularly distressing for those whose property is defaced by graffiti, especially if of an offensive nature, and can also have a negative impact upon the vitality and viability of business. The tackling of graffiti and other environmental crime in a positive way in other cities has sent a clear message to communities that societal improvements can be achieved, thereby boosting the strength of local cohesion, and demonstrate that the Council is committed and serious about resolving such matters.

3.0 SUMMARY OF CARDIFF COUNCIL'S POWERS AND RESPONSIBILITIES

3.1 The Council is responsible for removing graffiti from Council owned properties, parks and the highways. Graffiti removal from street furniture such as telephone boxes, bus shelters and utility cabinets remains the responsibility of the relevant private company. With regards to private and commercial property, the removal of graffiti is generally the responsibility of the owner although the Council can undertake this work with their approval.

3.2 In relation to graffiti, the Council's powers include:

- The removal of graffiti from privately owned or commercial property following a request from the owner;
- The issue of 'Defacement Removal Notices' under section 48 of the Anti-social Behaviour Act 2003, requiring the person responsible for the 'relevant surface' to remove the defacement within a period specified in the notice being not less than 28 days beginning with the day on which the notice is served, where the defacement is detrimental to the amenity of the area or is obscene, racist or threatening;
- Where the recipient of a Defacement Removal Notice fails to comply with the requirements of the Notice, an authorised officer of the Council may enter land to the extent necessary to enable him/her to remedy the defacement and may recover expenditure reasonably incurred in exercising this power;
- The issue of Fixed Penalty Notices where an authorised officer has reasonable grounds to believe that an offence of criminal damage/graffiti has been committed, and
- The initiation of prosecution proceedings where appropriate. The relevant legislation is listed in Appendix A.

4.0 OBJECTIVES

4.1 Cardiff Council's graffiti objectives, taking into account its powers identified above, are as follows:

1. To remove reported graffiti promptly from Council property and other domestic property (where owner approval is obtained);
2. To work in partnership with statutory undertakers and other agencies to secure the prompt removal of graffiti from commercial properties;
3. To encourage the reporting of graffiti;
4. To engage with local communities to provide education with the aim of reducing the occurrence of graffiti, and
5. To take enforcement action where considered appropriate to do so.

4.2 The following sections provide further detail regarding each of these objectives.

5 REMOVING GRAFFITI PROMPTLY FROM COUNCIL PROPERTY AND OTHER DOMESTIC PROPERTY

- 5.1** For Council owned property, including highway infrastructure (for example, bridges and highway signs), it is intended that any graffiti deemed racist, threatening or obscene will be removed within 1 working day of it being reported. It is intended that all other graffiti will be removed within 5 working days of it being reported. It should be noted that these are target timescales and there may be situations where their achievement may not be possible, for example, on high speed routes or railway land where special traffic management measures might first need to be established.
- 5.2** For private domestic property, where appropriate approval is attained, graffiti will be removed in accordance with the timescales identified in paragraph 5.1 above.
- 5.3** Where the owner/person responsible for the property upon which the defacement has occurred does not consent to the removal of graffiti, Cardiff Council will exercise its statutory powers under section 48 of the Anti-social Behaviour Act 2003 to remove the graffiti. However, in cases where the graffiti is considered racist, threatening or obscene the Council will also continue to liaise with the owner with the objective of securing the removal of the graffiti at the earliest opportunity.
- 5.4** For absent owner properties, Cardiff Council will contact the property owner with a view to removing the graffiti as soon as possible if there is no prior agreement in place between the property owner and the Council. In cases where Cardiff Council has a working partnership with the property owner, removal will be prioritised according to the nature of the graffiti. If after several attempts the owner of a property cannot be reached or identified, Cardiff Council will exercise its statutory powers to remove it. Prompt action will be taken where the graffiti is offensive in nature.

6 REMOVAL OF GRAFFITI FROM STATUTORY UNDERTAKER INFRASTRUCTURE AND OTHER COMMERCIAL PROPERTY

- 6.1** Street furniture infrastructure such as telephone boxes, bus shelters, post boxes and utility cabinets are often the responsibility of private companies. However Cardiff Council aims to form effective working partnerships with the relevant owners so that graffiti is removed from these items in a prompt and efficient manner. Cardiff Council will only remove graffiti from, for example items of street furniture, where given permission to do so, where a partnership is in place, or where there has been a failure to comply with a defacement notice in accordance with section 48 of the Anti Social Behaviour Act 2003. In instances where companies choose to remove graffiti themselves, contact details will be obtained so that the owner can be promptly contacted.

- 6.2 In respect of commercial property, the Council will engage with the owner with a view to seeking the removal of the graffiti within the timescales referred to in paragraph 5.1. Where the owner of the property upon which the defacement has occurred does not consent to the removal of graffiti, Cardiff Council will exercise its statutory powers under section 48 of the Anti-social Behaviour Act 2003 to remove the graffiti.

7 ENCOURAGE THE REPORTING OF GRAFFITI

- 7.1 Through appropriate public relations campaigns, Cardiff citizens will be encouraged to report graffiti to '101'. In conjunction with the Council, '101' has established a database for recording the occurrences of graffiti. All reported graffiti will be added to the database which will then generate graffiti removal requests to the Council's graffiti removal resources. Both 'before removal' and 'after removal' photographs will be recorded in the database. These will not only validate completion of work, but be used as evidence to aid in prosecution of persistent offenders. The database will facilitate the sharing of information with enforcement agencies including the police.
- 7.2 Additionally, an online form to report graffiti is provided as a link from the Council's Graffiti web pages on its website.

8 COMMUNITY ENGAGEMENT, EDUCATION AND PREVENTION

- 8.1 If appropriate, Cardiff Council will support applications from residents and residents' groups who would like to manage graffiti by displaying a mural/public art in a specific location. This would have to be relevant to the community and not contain any threatening themes, with local community meetings deciding on the content. Using a commissioned artist is a plausible option. This would be particularly relevant to areas where there is a history of tagging.
- 8.2 Cardiff Council will provide appropriate support to residents and residents' groups in tackling graffiti problems in their area by way of community clean ups.
- 8.3 Cardiff Council will engage with residents and businesses to encourage reporting of graffiti, and provide advice with regards to graffiti prevention and removal so that incidences are dealt with as promptly as possible.
- 8.4 Cardiff Council will monitor incidences of graffiti according to area and schedule regular removal from hotspot areas across the city. This will be done in coordination with Communities First, the Welsh Assembly Government's Flagship Programme to tackle deprivation, which helps provide local people with opportunities to play an active role in shaping the future of their community.

- 8.5 Cardiff Council will engage with young people through an ongoing programme of education and diversionary techniques, including through schools and organised youth activities.
- 8.6 Cardiff Council will constantly seek to look at new ways of preventative measures, such as the use of sacrificial coatings and natural screening in areas persistent to graffiti attack.

9 ENFORCEMENT

- 9.1 Cardiff Council opposes unauthorised writing, drawing or scratches that are scribed, painted or engraved upon walls and other surfaces. Cardiff Council will take action against those responsible for graffiti, and seek to recover its costs from the person(s) responsible through avenues such as the small claims court in cases where Council property has been targeted. Appropriate enforcement action will therefore be taken whenever it is considered that sufficient evidence exists to achieve a successful outcome. Cardiff Council will work closely with the police to identify tags and the 'taggers', and collect evidence to take action as appropriate so that offenders are dealt with swiftly.
- 9.2 Cardiff Council supports restorative justice for offenders, and will work closely alongside the probation service so that young offenders and probationers who have been convicted of graffiti vandalism can be involved in diversionary art projects and supervised clean ups.
- 9.3 Cardiff Council will work in partnership with other service areas and organisations on diversionary art projects and workshops, particularly in relation to murals and public art which make a positive contribution to the area, reflect the community and discourage tagging.

10 CHARGING FOR GRAFFITI REMOVAL

- 10.1 Subject to the receipt of owner approval, the Council will remove graffiti free of charge from both privately and commercially owned domestic premises up until 31 March 2010 when this will be reviewed.
- 10.2 However, as stated in paragraph 5.3, where the owner/person responsible for the property upon which the defacement has occurred does not consent to the removal of graffiti, Cardiff Council will exercise its statutory powers under section 48 of the Anti-social Behaviour Act 2003 to remove the graffiti and recover its expenditure reasonably incurred.

11 MONITORING AND REVIEW

- 11.1 This Graffiti Removal Policy shall be reviewed and updated as required on a regular basis. It is intended that the next formal review be undertaken and reported to the Council by 31 March 2010.

GRAFFITI POLICY - APPENDIX A

RELEVANT LEGISLATION

Graffiti is a crime and Cardiff Council has the powers to prosecute offenders under the following legislation:

- **Criminal Damage Act 1971.** Graffiti is criminal damage under section 1 of the Criminal Damage Act 1971. If the value of criminal damage exceeds £5,000 the maximum penalty for those aged 18 or over is 10 years imprisonment, for those aged 12-17 year the maximum custodial penalty is a detention and training order of up to 24 months. Where the damage is less than £5,000 the maximum sentence is three months imprisonment or a fine of £2,500 for adult offenders.
- **Anti-social Behaviour Act 2003.** This allows the Council to issue penalty notices for graffiti or fly-posting, and also defacement removal notices under section 48 which requires the person responsible for the relevant surface to remove the defacement within a period specified in the notice being not less than 28 days beginning with the day on which the notice is served, where the defacement is detrimental to the area or is offensive. Failure to comply will result in an authorised officer of the local authority remedying the defacement and may recover the expenditure. It also prohibits the sale of aerosol spray paint to under sixteen's under section 54. this The provision is enforced by the Trading Standards Service who will respond to all complaints by issuing written warnings followed by test purchases using child volunteers. If sales are made enforcement action will be taken.
- **Crime and Disorder Act 1998.** This states that an application for an Anti Social Behaviour Order under this section may be made by a relevant authority if it appears to the authority that the following conditions are fulfilled with respect to any person aged 10 or over, namely- (a) that the person has acted, since the commencement date, in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and (b) that such an order is necessary to protect persons in the local government area in which the harassment, alarm or distress was caused or was likely to be caused from further anti-social acts by him.
- The **Highways Act 1980 Section 132** states "if any person without consent of the Highway Authority paints or otherwise affixes any picture, letter, sign or other mark upon the surface of the Highway is guilty of an offence and liable to a fine not exceeding level 3 (£2500) the standard scale".