

REVIEW OF GRAFFITI POLICY

REPORT OF CORPORATE DIRECTOR (BUILT ENVIRONMENT)

AGENDA ITEM: 8

PORTFOLIO : ENVIRONMENT

Reason for this Report

1. To outline the results of a review of the Council's graffiti policy and to propose a revised policy that builds on progress made in recent years to respond to instances of graffiti.

Background

2. On 2 October 2008, the Executive approved a Graffiti Policy that sought to set out the Council's approach for dealing with the problem of graffiti. This Policy was prepared following the establishment of two graffiti teams using funds allocated by the Council in February 2008 in conjunction with a grant secured from the Home Office which was used to purchase two vehicles to assist with graffiti removal.
3. Prior to the approval of the Executive report, the Council did not have an approved policy in place with respect to the removal of graffiti and the associated matters of education and enforcement. It was intended that the policy apply to all Service Areas that undertake graffiti removal. These currently include Infrastructure, Direct Services, Waste Management and Street Cleansing, and Housing and Neighbourhood Renewal.
4. The report approved by the Executive on 2 October 2008 stated that a formal review of the Graffiti Policy would be undertaken after a period of 12 months and then reported to the Executive. This review has been undertaken and is reported below.

Issues

5. The review was undertaken with reference to research into best practice currently undertaken across the UK. Account was also taken of operational experience gained since the policy was first approved in

October 2008. Each section of policy was reviewed, the details of which are reported in Appendix 1.

6. The impact of the service has been significant. During the period 1 October 2008 to 31 December 2009, a total of 1441 items of graffiti were removed from property around Cardiff. 8% of these items were classified as racist, threatening or obscene with the remaining 92 % classified as 'other' graffiti.
7. A key issue considered as part of the review was whether a charge should be made for graffiti removal. The policy currently states that, subject to the receipt of owner approval, it is intended that the Council will remove graffiti free of charge from both privately and commercially owned domestic premises.
8. In reviewing this policy, nearly 40 local authorities were contacted regarding graffiti removal policy. 57% of these Councils advised that they charged for graffiti removal with some charging for removal from private and/or commercial property only and some for removal from areas that do not face the public highway. The charges made for graffiti removal varied with the minimum being £5. If the Council were to introduce charges, say £10 per graffiti removal job, and assuming there was no reduction in requests, based on the 12 months between January 2010 and December 2010, an income of £14,410 would be received. However, in all likelihood, less requests would be received if charges were introduced and hence less graffiti would be removed from the streets of Cardiff.
9. In addition, the introduction of charges would have a differential impact across the city: impacting adversely on residents with limited means to pay and who often live in areas where problems of graffiti are especially apparent. In addition, in accordance with good practice, it would be beneficial for the charges to be collected before removal which would inevitably result in delays. For all these reasons, it is recommended that charges should not be introduced
10. As a result of the review, it is also recommended that:
 - Paragraph 1.2 of the existing policy be revised to emphasise the importance of education:

“The overall aim of the policy is to reduce the amount of graffiti across the city through appropriate education, the removal of graffiti as quickly as possible and the instigation of enforcement action against offenders”;
 - The owners of street furniture such as the Post Office and BT be re-contacted with the aim of establishing an agreement or removal times for graffiti on their property;
 - ‘101’ should remain as the main contact point for citizens wishing to report the occurrence of graffiti around Cardiff.

11. It is proposed that the next formal review of the Graffiti Policy should be undertaken for the period until 1 April 2012 and be reported to the Executive by 30 September 2012.

Reasons for Recommendations

12. The approval of the updated Graffiti Policy will facilitate the continuation of a consistent and effective approach to the removal of graffiti across the city together with the implementation of appropriate education and enforcement activities.

Legal Implications

13. Enforcement action can only be taken in cases where there is sufficient evidence and it is in the public interest to take proceedings. Each case has to be considered on an individual basis.

Financial Implications

14. There are no financial implications arising from this report.

RECOMMENDATION

The Executive is recommended to approve the updated Graffiti Policy attached as Appendix 2.

PAUL ORDERS

Corporate Director
4 June 2010

The following appendices are attached:-

Appendix 1 – Details of Review Undertaken
Appendix 2 – Draft updated Graffiti Policy

Details of Review Undertaken

1.0 Introduction

- 1.1 This Appendix summarises the review undertaken of the Graffiti Policy approved by the Executive in October 2008.

2.0 Section 1 – Purpose of Policy

- 2.1 In Section 1 of the initial policy, the overall aim was identified as:

“to ensure that graffiti is removed as quickly as possible and appropriate enforcement action is taken against offenders.” In order to emphasise the importance of education, it is believed that this should be amended to: *“to reduce the amount of graffiti across the city through appropriate education, the removal of graffiti as quickly as possible and the instigation of enforcement action against offenders.”*

3.0 Section 2 – Background

- 3.1 This section provides appropriate background information and no changes are proposed.

4.0 Section 3 – Summary of Cardiff Council’s Powers and Responsibilities

- 4.1 The Council's powers and responsibilities with respect to graffiti remain unchanged and therefore no changes are proposed.

5.0 Section 4 - Objectives

- 5.1 Five particular objectives, which took into account the relevant powers available to the Council referred to in Section 3, were identified as follows:

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

- 5.2 It is believed that these objectives remain relevant and appropriate to the revised overall aim of the Policy as referred to above.

6.0 Section 5 – Removing graffiti Promptly from Council Property and Other Domestic Property

- 6.1 This section outlines proposed timescales for the removal of graffiti. It states that it is intended that any graffiti deemed racist, threatening or obscene be removed within 1 working day of it being reported and that all other graffiti be removed within 5 working days of it being reported. During the period 1 October 2008 to 31 December 2009, a total of 1441 items of graffiti were removed from property around Cardiff. 8% of these items were classified as racist, threatening or obscene with 78% being removed within 1 working day of being reported. 92 % were classified as 'other' graffiti with 93% being removed within 5 working days of it being reported. A performance target of 85% was set for the removal of both types of graffiti within the stated targets.
- 6.2 It is believed that these 1 working day and 5 working day timescales should remain unchanged. These timescales are generally consistent with those adopted by other Council's and additional resources would be required in order to reduce these periods. Furthermore, reducing the timescale for the removal of racist, threatening or obscene graffiti below 1 working day would not be practical. Clearly, it has not been possible to remove all graffiti within the target timescales. Delays occasionally occur for a variety of reasons including: access difficulties (for example, where working at heights is required); on high speed routes where special traffic management measures might first need to be established, and where the approval of the property owner is not immediately forthcoming, for example, if they are on holiday. Experience has shown that for non Council owned property, it is important to obtain the prior approval of the owner in order to avoid potential disputes at a later date.

7.0 Section 6 – Removal of Graffiti from Statutory Undertaker Infrastructure and Other Commercial Property

- 7.1 This section stated that the Council aims to form effective working partnerships with statutory undertakers and will take relevant enforcement action where the owner does not remove the graffiti itself. A large number of statutory undertaker street furniture has been subjected to graffiti. A 'working partnership' has been established with NTL/Virgin whereby the Council removes graffiti from the company's apparatus using paint provided by the company for a set fee per item. This partnership has proved an effective way of promptly removing graffiti from statutory undertaker street furniture. Other organisations including BT, Adshel, Network Rail and the Post Office have also been contacted with a view to establishing arrangements. However, these organisations have declined on the basis that they prefer to use their own resources to remove graffiti from their property, although the timescale for removal is often longer than desired. To date, the legal powers available to the Council have not been used to secure the removal of graffiti from private and commercial property.

- 7.2 It is recommended that this section of the policy is not amended, but that these other organisations be contacted again with a view to establishing an effective working arrangement to secure the prompt removal of graffiti where identified.

8.0 Section 7 – Encourage the Reporting of Graffiti

- 8.1 The Graffiti Policy states that the '101' operation be used as the main contact point for citizens wishing to report the occurrence of graffiti. In conjunction with the Council, '101' has established a database for recording the occurrences of graffiti. All reported graffiti is added to the database which then generates graffiti removal requests to the Council's graffiti removal teams. Both 'before removal' and 'after removal' photographs are stored in the database to validate completion of work. They could also be used as evidence to aid in prosecution of persistent offenders. Additionally, an online form has been provided on the Cardiff Council website as an alternative method of reporting graffiti. All requests, regardless of how they are notified, are added to the '101' database.
- 8.2 It is recommended that '101' should remain the main contact point for citizens wishing to report the occurrence of graffiti around Cardiff.

9.0 Section 8 – Community Engagement, Education and Prevention

- 9.1 It is recommended that no changes be made to this section. Council officers have provided appropriate support to resident groups in tackling graffiti problems in their area by way of community clean ups. Examples include an action day in Cathays where together with local volunteers graffiti was tackled in and around the park, and a project in Riverside working alongside Keep Wales Tidy.
- 9.2 The Policy provides that the Council will monitor incidences of graffiti according to area and schedule regular removal from hotspot areas across the city in conjunction with Communities First. Since establishment of the Policy and the launch of '101', the Graffiti Removal Teams have been focused on addressing requests received via '101' with the objective of achieving the target timescales for removal. However, some work has been done with Communities First, for example, 'Splottless,' a recurrent community action day which recently came runner up in the annual Keep Wales Tidy awards. In the future, it is intended to continue with Communities First on projects around the city in order to positively tackle graffiti hotspots and to use the success of the community day in Splott as a blueprint to be rolled out in other areas.

10.0 Section 9 - Enforcement

- 10.1 The Policy states that Cardiff Council will not tolerate any unauthorised writing, drawing or scratches that are scribbled, painted or engraved upon walls and other surfaces, and that appropriate enforcement action will therefore be taken whenever it is considered that sufficient evidence exists to achieve a successful outcome. To date, no enforcement action

has been taken by the Council as sufficient evidence to link graffiti incidents with identified persons has not been collected. However, in the 2008/2009 period, the Police arrested over 30 offenders in connection with graffiti related crime.

- 10.2 It is recommended that no changes be made to this section of the Policy.

11.0 Section 10 – Charging for Graffiti Removal

- 11.1 The Policy currently states that, subject to the receipt of owner approval, it is intended that 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.

- 11.2 In reviewing this policy, nearly 40 Council's were contacted regarding their graffiti removal policy. 57% of these Councils advised that they charged for graffiti removal with some charging for removal from private and/or commercial property only and some for removal from areas that don't face the public highway. The charges made for graffiti removal varied with the minimum being £5. If Cardiff Council was to introduce charges, say £10 per graffiti removal job, and assuming there was no reduction in requests, based on the 12 months between January 2010 and December 2010, an income of £14,410 would be received. However, in all likelihood, less requests would be received if charges were introduced and hence less graffiti would be removed from the streets of Cardiff. There might also be a concern that residents in some areas would be willing to pay for the service whilst residents in other areas might not be willing to pay. In addition, in accordance with good practice, it would be beneficial for the charges to be collected before removal which would inevitably result in delays. Furthermore, there could be an expectation for a higher standard of service if citizens/businesses paid for the service. Therefore, it is recommended that charges not be introduced. Therefore, it is recommended that charges not be introduced

12.0 Section 11 – Monitoring and Review

- 12.1 This section identified that the Policy should be reviewed and updated as required on a regular basis. It is recommended that the next formal review of the Graffiti Policy be undertaken for the period to 1 April 2012 and be reported to the Executive by 30 September 2012.

13.0 Summary

- 13.1 It is recommended that:

1. Paragraph 1.2 of the existing policy be changed to state:

"The overall aim of the policy is to reduce the amount of graffiti across the city through appropriate education, the removal of graffiti as quickly as possible and the instigation of enforcement action against offenders";

2. The owners of street furniture such as the Post Office and BT be re-contacted with the aim of establishing an agreement or removal times for graffiti on their property;
3. That '101' should remain the main contact point for citizens wishing to report the occurrence of graffiti around Cardiff;
4. That charges not be introduced, and
5. The next formal review of the Graffiti Policy be undertaken for the period to 1 April 2012 and be reported to the Executive by 30 September 2012.

Draft Updated Graffiti Policy



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 reduce the amount of graffiti across the city through appropriate education, the removal of graffiti as quickly as possible and the instigation of enforcement action 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 for the period to 1 April 2012 and be reported to the Council by 30 September 2012.

APPENDIX A RELEVANT LEGISLATION

Graffiti is a crime and Enforcement Authorities such as the Police and Local Authorities have various powers to deal with 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".