

TITLE OF REPORT: REVIEW AND REVISION OF GRAFFITI MANAGEMENT POLICY

REPORT OF THE HEAD OF LEISURE AND ENVIRONMENTAL SERVICES
EXECUTIVE MEMBER: COUNCILLOR PETER BURT

1. SUMMARY

- 1.1 Local Authorities are often the first place residents' contact when they want to report a graffiti problem. The responsibility for the removal of graffiti is that of the property owner and the revision of the graffiti management policy clarifies the role of NHDC staff their responsibilities and the processes which will be undertaken in seeking the removal of graffiti within the North Hertfordshire district.

2. RECOMMENDATIONS

- 2.1 To agree the new Graffiti Management Policy for North Hertfordshire, as set out at Appendix B to the report.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The current graffiti policy was last reviewed in 2003. The updated policy reflects the current legislation and provided clarity on the removal responsibilities for North Hertfordshire.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Continuation of custom and practice in accordance with operational efficiencies – this was discounted as some of the legislation governing graffiti management has recently changed.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Executive Member for Waste Management, Recycling and Environment has been consulted.
- 5.2 Hertfordshire Highways has been consulted and are happy with the proposed policy approach. It has been confirmed that their contractor is required to remove offensive graffiti within 24 hours of receiving the report. This positive action by Hertfordshire Highways will assist in the swift removal of offensive graffiti.
- 5.3 North Hertfordshire Homes has been consulted and comments received and taken into consideration regarding the charging of domestic properties.
- 5.4 Royston Town Council, Letchworth Heritage Foundation, Hitchin BID and Letchworth BID have also been consulted.

6. FORWARD PLAN

6.1 This report was first notified to the forward plan on 22nd December 2015.

7. BACKGROUND

7.1 The current NHDC Graffiti Policy was last reviewed by Cabinet in 2003. That policy is attached at Appendix A to this report.

7.2 The format and content of Council policies has changed significantly since and the recent change in legislation surrounding the removal of graffiti on private property has prompted the drafting of a new policy (attached at Appendix B to this report).

7.3 Graffiti is a relatively minor problem in North Hertfordshire, with the number of reports significantly lower now than in 2003. In 2015 reports of graffiti increased predominantly due to the offences committed by one tagger.

Year	Number of reports
2010	8
2011	4
2012	10
2013	5
2014	18
2015	24
2016 to date	3

7.4 Reports are not currently categorised into graffiti types however a system of categorisation will be set up to facilitate this policy and subsequent procedures.

7.5 In October 2014 the new powers under the Anti Social Behaviour, Crime and Policing Act 2014 removed powers previously available under the Anti Social Behaviour Act 2003 to issue defacement removal notices to require the removal of graffiti. These powers have been replaced with powers to issue Community Protection Notices.

7.6 Enforcement in relation to graffiti has not previously been undertaken by NHDC and therefore this policy seeks to set out where authorised officers may take enforcement action in order to protect the amenity of North Hertfordshire. The policy proposal is for this to occur where graffiti is offensive and is not removed by the property owner and in other exceptional circumstances.

7.7 Graffiti removal equipment is shared with East Hertfordshire District Council under the current contract. This secured a contract saving when the contract with Veolia Environmental Services Ltd was extended. Consequently some timeframes for graffiti removal have been extended beyond the contracted timeframes to take account of the fact that the equipment may not be located at the North Hertfordshire depot.

8. ISSUES

8.1 It is often the case that residents identify the Council as the first place to contact to secure the removal of graffiti visible in public places. However there is a need to manage public expectation for graffiti removal when this does not fall to the responsibility of NHDC.

- 8.2 Graffiti predominantly occurs on highway owned bridges or network rail property which NHDC does not have a duty to remove. Officers therefore will continue to report graffiti on property not in it's ownership when members of the public report incorrectly.
- 8.3 NHDC can not control the speed at which property owners remove graffiti. The policy sets out mechanisms to ensure that property owners are encouraged to action offensive graffiti and enforcement processes to follow in the event that no action is taken. However no enforcement action is proposed for non offensive graffiti such as tagging.
- 8.4 Timescales for removal in the proposed policy are tabled below:-

Property Type	Priority 1	Priority 2	Priority 3
Domestic Property (excluding Housing Associations)	Hand delivery of indemnity form within 5 working hours of report. Repeat contact attempts. Clean within 1 working day of indemnity receipt. Issue Warning Notice followed by Community Protection Notice if cleaning offer not accepted.	Delivery of indemnity form within 3 working days of report. Repeat contact attempts. Clean within 2 working days of indemnity receipt. Issue Warning Notice followed by Community Protection Notice if cleaning offer not accepted.	Delivery of indemnity form within 5 working days of report. NHDC clean offered for accessible locations. (chargeable). Clean within 5 working days of indemnity and payment receipt.
Commercial Property	Hand delivery of indemnity form within 5 working hours of report. NHDC clean offered for accessible locations. (chargeable). Repeat contact attempts. Clean within 1 working day of indemnity and payment receipt. Issue Warning Notice followed by Community Protection Notice if cleaning offer not accepted.	Delivery of indemnity form within 3 working days of report. NHDC clean offered for accessible locations. (chargeable). Repeat contact attempts. Clean within 2 working days of indemnity and payment receipt. Issue Warning Notice followed by Community Protection Notice if cleaning offer not accepted.	Clean on request only (chargeable)
NHDC Property including street name signs	Clean within 1 working day of incident being reported.	Clean within 2 working days of verification.	Clean within 28 days of report. Priority 3 work is batched together to form complete day's work to achieve better value from resources.

HCC highway signs	Clean within 1 working day of incident being reported. Report clean to HCC Highways	Notify HCC online of incident within 1 working day of report. Removal to be carried out by HCC. NHDC clean offered for accessible locations. (chargeable). Issue Warning Notice followed by Community Protection Notice if work is not completed within 28 days of report.	Notify HCC of incident within 3 working days of verification. Removal to be carried out by HCC.
Highway/HCC Structures- subways, underpasses, lamp posts	Notify HCC online of incident within 5 working hours of report. Removal to be carried out by HCC. NHDC clean offered for accessible locations. (chargeable). Issue Warning Notice followed by Community Protection Notice if work is not completed within 7 days of report.(where road closure is required 14 days)	Notify HCC online of incident within 1 working day of report. Removal to be carried out by HCC. NHDC clean offered for accessible locations. (chargeable). Issue Warning Notice followed by Community Protection Notice if work is not completed with 28 days.	Notify HCC of incident within 3 working days of verification. Removal to be carried out by HCC.
Other Utility company/ Public Service body/ provider	Notify land/property owner of incident within 5 working hours of report. Removal to be carried out by land/property owner. NHDC clean offered for accessible locations. (chargeable). Issue Warning Notice followed by Community Protection Notice if work not completed after 14 days.	Notify land/property owner of incident within 1 working day of report. Removal to be carried out by land/property owner. NHDC clean offered for accessible locations. (chargeable). Issue Warning Notice followed by Community Protection Notice if work not completed after 28 days.	NHDC reports incident to the landowner and it is their responsibility to clean. We will offer to clean (chargeable) 28 days

8.5 Cleaning timescales from the 2003 policy are shown in the table below.

	Council Property	Other Property
<p><u>Priority1:</u> Extremely Racist graffiti/ graffiti which offends other groups or could pose immediate danger</p>	Clean within 1 hour of incident being reported	Clean within 1 hour of permission to enter land being given
<p><u>Priority2:</u> Racist graffiti/ graffiti which offends other groups or could pose danger</p>	Clean within 24 hours of incident being reported	Clean within 24 hours of permission being given to enter land
<p><u>Priority 3:</u> General graffiti which is not racist, offensive or poses danger</p>	Clean within 7 working days of incident being reported	Clean within 14 working days of permission to enter land being given

8.6 The timescales have been adjusted from the 2003 policy to reflect what is operationally practicable. The Councils contractor no longer has the ability to respond to graffiti within 1 hour in all instances as equipment is now shared with East Hertfordshire District Council as part of a cost saving agreement. In all instances of Priority 1 or Priority 2 graffiti the Council's contractor will endeavour to remove graffiti as swiftly as possible once indemnity forms have been received.

9. LEGAL IMPLICATIONS

9.1 The Anti-Social Behaviour Act 2003 Section 43, gives powers to issue fixed penalty notices where an offence has been committed. It is not proposed to use these powers as resources are not in place to properly enforce it.

9.2 The previous powers to issue Defacement Removal Notices under the 2003 act have been repealed. The appropriate replacement power under the Anti-social Behaviour, Crime and Policing Act 2014 would be Community Protection Notices. These are contained within Section 43. Section 47 of the Act allows for the Local Authority to carry out work and bill the offending person.

10. FINANCIAL IMPLICATIONS

10.1 The policy revision brings NHDC in line with charging undertaken by East Hertfordshire District Council. The proposals will not increase operational costs to NHDC as the proposals are cost neutral and cost recovery based only.

- 10.2 The core Veolia contract includes the removal of graffiti from Council owned property and this element of the policy has not changed. Member should note that the contract specification from 2018 for graffiti may be different.

11. RISK IMPLICATIONS

- 11.1 Risks are not anticipated to greatly increase which the change in policy.
- 11.2 Risks exist in relation to property damage on private property, an indemnity form is proposed to mitigate this and is used as part of the existing policy and procedures.
- 11.3 General risks exist around the perception of anti-social behaviour and crime where graffiti is visible in the public domain. This risk is relatively low in North Hertfordshire due to the limited presence of graffiti. This risk may increase should property owners be unwilling to pay for the removal on their property.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The updating of the graffiti management policy refreshes the manner in which the authority deals with graffiti that may discriminate or causes offense. This then directly assists the authority's obligation to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations within the North Hertfordshire community.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 There are no social value implications.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 Staff within Waste Services are aware of the addition of enforcement to their job descriptions. To date they have had no enforcement training. Training will therefore be required before any enforcement action could be undertaken and will consist of specific legislative requirements around the use of Community Protection Notices and the processes leading up to their use.

15. APPENDICES

- 15.1 Appendix A – Existing Graffiti Policy.
- 15.2 Appendix B – Proposed new Graffiti Removal and Management Policy.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 Existing 'Graffiti Policy'.