

Report

Deputy Leader / Cabinet Member for City Services

Part 1

Date: 12 October 2021

Subject Graffiti Policy

Purpose To seek Cabinet Member approval to the graffiti removal policy attached as Appendix to this report

Author Scott Coughlan

Ward All Wards

Summary The City Services area want to improve management of graffiti across Newport and have already taken steps and increased resources to enable this, with the aim of significantly reduce current levels of graffiti, both on NCC property and property managed by third parties.

However, operations need to be backed by an official policy in place that can provide a framework for the actions to be taken to tackle graffiti. The policy sets out our response rates and the support we shall provide to third parties. It also sets out what enforcement action will be taken if graffiti is not removed voluntarily.

Proposal That the Cabinet Member approves the graffiti removal policy

Action by Head of City Services

Timetable Immediate

This report was prepared after consultation with:

- Head of Finance
- Head of Law and Regulatory Services
- Head of People and Business Change

Signed:

Background

The levels of graffiti within the city has increased significantly during the pandemic, with the vast majority of graffiti being on private land. The Cleansing department are removing graffiti on NCC Highways assets, such as road signs, street signs, bridges, underpasses, subways etc.

The waste enforcement team, primarily responsible for waste offences, has increased its remit to enforce against graffiti offenders and to support private landowners to remove graffiti from their own property in a timely manner, with the option to enforce if appropriate.

In order to effectively enforce against private landowners, a policy that sets out the enforcement process needs to be in place.

The policy also highlights how enforcement and removal processes are managed, particularly as regards to differentiating responses to non offensive graffiti compared to offensive graffiti.

The policy states our response rates to priority 1 (offensive) and priority 2 (non-offensive) graffiti and the support we can provide to private owners who have been subject to graffiti attacks, as well as the expected timescales that private property owners have to remove graffiti before enforcement action may be taken.

Priority 1 Offensive graffiti includes, but is not limited to, racist, sexist, homophobic, anti-trans graffiti, as well as graffiti of a sexual nature. Priority 1 graffiti should be removed as soon as possible (see policy for timescales)

Priority 2 graffiti includes any non-offensive graffiti, ie. random images, scribbles, tagging etc. This graffiti is not as urgent to remove, so timescales are longer.

The policy also sets out our responses, support and enforcement options for different types of property owners, ie domestic dwellings, large organisations and businesses, NCC land etc.

Enforcement, whilst a valuable tool, will only be used as a last resort, if support, education and advice is ignored and graffiti is not removed within the timescales set out in the policy.

As set out in the policy, NCC will offer to remove graffiti on certain private property, so there is potential for income into the council, however the charges offered will be cost neutral to minimise the economic impact of removal on residents and businesses.

The main method of enforcement will be the issuing of Community Protection Notices requiring property owners to remove within a reasonable timescale, but also allows NCC to add conditions to minimise likelihood of reoccurrence. The extra conditions will only be used for property where we have returned multiple times to remove new graffiti.

Financial Summary (Capital and Revenue)

This proposal does not have additional financial implications – the cleansing team already has resources to remove graffiti in Council land and the graffiti enforcement officer is already in place. Any additional services to remove graffiti from private land will incur a charge that will cover the cost of the service.

Risks

Adoption of the proposal will set the steps the council can take from the moment graffiti is identified until is removed, including a collaborative approach and application of enforcement action should other approaches fail. Failure to adopt the policy would restrict the action the council can take to tackle graffiti and this could lead to increased levels of graffiti across Newport, which in turn can have a negative impact on the Council's reputation and can enhance hate crime and antisocial behaviour. All these risks are significantly reduced when the mitigating actions are in place

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Increased levels of graffiti	L	L	<ul style="list-style-type: none"> - Removal team/private contractor in place - Cleaning equipment - Graffiti officer post to liaise with businesses/identify offenders - Policy in place to define procedure for removal, collaboration and enforcement elements 	Scott Coughlan
Reputational issues	L	L		
Increased hate crime/ASB	M	L		

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The graffiti removal policy is aligned with the priorities and commitments identified as part of the Corporate Plan 2017-2022 – it will help address and tackle graffiti as an issue that has a significant impact on people’s perceptions of wellbeing and quality of life. It has links with perceived degradation in certain areas and more serious antisocial behaviour and can constitute in itself or instigate Hate Crime. Any measure to deal with all the negative aspects of graffiti will contribute to promote economic growth and regeneration whilst protecting the environment, and to improve community cohesion - all built around the main theme of building a Safer Newport.

Options Available and considered

- Option 1: To approve the graffiti removal policy
- Option 2: Not to approve the graffiti removal policy

Preferred Option and Why

To approve the graffiti removal policy to ensure the Council has a consistent approach and relevant framework to address graffiti across Newport and reduce the risks identified.

Comments of Chief Financial Officer

The removal of graffiti is already carried out by the Street Cleansing team using existing budgets, this proposal seeks to create a policy that will support officers in delivering this service and as such there will be no adverse financial impact. The proposal does allow for charges to be applied for the removal of graffiti on private land but this will merely cover the additional cost incurred.

Comments of Monitoring Officer

The proposed Graffiti removal policy is in accordance with the Council’s legal powers under the Anti-Social Behaviour, Crime and Policing Act 2014 and the Local Government Act 2003. The removal of graffiti from public and private property in order to improve the environment, is consistent with the Council’s Corporate and well-being objectives. The removal policy will provide a transparent and consistent approach to dealing with the problem. However, this should only provide a general framework for the exercise of the Council’s statutory powers and it should not be applied so rigidly as to fetter the Council’s discretion to consider the specific circumstances in each case, to ensure that it is acting fairly, proportionately and in a non-discriminatory manner.

The 2014 Act enabled the Council to serve Community Protection Notices (CPN) to deal with a range of anti-social behaviour, and replaced the previous graffiti removal notices. These CPN’s are the main

enforcement measure under the proposed new removal policy. However, before serving any CPN on the owner of any property, the Council needs to be satisfied that the graffiti is having a detrimental effect on the quality of life for those living in the locality and the conduct of the owner in not removing the graffiti is unreasonable. It should be borne in mind that defacing other people's property with graffiti is an offence of criminal damage and the perpetrator of the offence is the person who is primarily liable. The owners of the property should only be served with a CPN if they have acted unreasonably in failing to make arrangements to have the graffiti removed and this non-removal is considered to be anti-social. In addition, a fixed penalty notice should only be issued if they have failed to comply with the CPN without reasonable excuse.

The Council does not have any duty to remove graffiti from private property, but it has the power to undertake the work with the permission of the owners and it has a discretionary power to charge for that work in accordance with section 93 of the Local Government Act 2003. The Council would also have the power to enter into service level agreements with commercial operators to undertake graffiti removal of their behalf. The impact of the proposed differential charges will need to be assessed to ensure that they do not breach equalities or socio-economic duties, and the amount of the charges should be on a cost-recovery basis only because the Council is unable to make any commercial "profit" out of its discretionary charges. The terms of the proposed disclaimer/indemnity will also need to be considered, particular in relation to private householders, to ensure that these are not unfair contract terms, as the Council would have to accept some degree of responsibility for the work itself.

Finally, if the service of the CPN and any fixed penalty notices is to be delegated to the Head of City Services and his authorised officers, then a recommendation will need to be made to Council to amend his scheme of delegation in the Constitution, as all other anti-social behaviour enforcement is currently delegated to the Head of Law & Regulation.

Comments of Head of People and Business Change

The graffiti removal policy is aligned with the priorities and commitments identified as part of the Corporate Plan and will help address and tackle an issue that has an impact on people's perceptions of wellbeing and quality of life.

The FEIA completed in connection with this report shows sufficient evidence of support for the goals and the sustainable development principles of the Well Being of Future Generations Act. There are no HR implications of this report.

Comments of Non-Executive Members

Councillor Forsey:

In most cases graffiti has a negative effect on our environment and I welcome this policy to remove it. It is important that a method for tackling the graffiti on non-council owned assets, such as telephone/communications boxes is devised. An efficient method of reporting graffiti is also required.

Councillor Ferris:

I support the move to make owners responsible for the removal of graffiti on their buildings. I have had frequent approaches from residents about one of our better buildings, the Old Art College, being defaced. At present I believe all our conservation officer can do is ask the owners nicely to co-operate in getting it removed. I understand that race hate and obscenities would have priority in removal but ask that some consideration should be given to the significance and prominence of the buildings in rating the priority in removal of graffiti. Perhaps the Authority could offer its services in removal at a reasonable rate to address the problem and provide the city with a modest revenue?

Response to Councillor Ferris:

Listed building consent would be required for any stone cleaning work other than done by hand. We would however need to consider that relevant buildings are often listed, as well as getting the owner's consent, which has an impact on the response times and may even require specialist techniques/tools. Regarding removal costs, graffiti removal from domestic properties will be offered free of charge or at cost rates, depending on the type of graffiti, but removal services for other type of properties would also

be offered at very competitive rates and also short timescales, as the main aim would be to keep Newport graffiti free so we want to offer an affordable and efficient service

Scrutiny Committees

N/A

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

The FEIA has identified the policy will have a positive impact on people that share protected characteristics, as it will enable the council to identify and remove offensive graffiti quickly, and also provides the framework to seek and share intelligence to identify offenders.

It also makes a positive contribution to the sustainable development principle due to its long term, collaborative approach, contribution to regenerate the city and activities to support and engage with communities.

No impacts were identified for Welsh Language, and whereas the Socio-economic Duty does not apply to this decision is recognised that levels of graffiti can be higher in areas that also experience socio-economic disadvantage, therefore this policy is likely to have a positive impact on areas of inequality which include community safety and justice, living standards, and physical environment.

Consultation

Comments received from wider consultation, including comments from elected members should be included here.

Where a decision impacts on one or two individual wards report writer to ensure that ward members are informed of this. All members receive the report as part of the democratic process and any comments will be inserted here together with any Head of Service response in the final report.

Background Papers

Set out a list of any relevant background papers and whether they are available to the public.

Dated: 4 October 2021