

## GRAFFITI POLICY

<b>Head of Service:</b>	Ian Dyer, Head of Operational Services
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	N/A
<b>Appendices (attached):</b>	None

### Summary

To propose a policy for removal of graffiti in the borough on both public and private assets

### Recommendation (s)

#### The Committee is asked to:

- (1) Approve the proposed policy for graffiti removal in the borough as set out in section three of this report.
- (2) Approve the proposal to offer a fee-based graffiti removal service for private assets as set out in section five of this report.

## 1 Reason for Recommendation

- 1.1 To establish a policy that sets out how the council will deal with reporting of graffiti, removal of graffiti and enforcement.
- 1.2 To ensure the policy for dealing with graffiti removal is both economically viable and sustainable.

## 2 Background

- 2.1 Graffiti is defined as unauthorised writing, drawing or scratches that are scribed, painted, or engraved upon walls and other surfaces without the owner's express permission.

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2.2 Graffiti can be generally placed into the following categories:

- Offensive graffiti – whilst there is no specific legal definition of ‘offensive’ we determine offensive graffiti as words or images which target a person’s protected characteristics. Protected characteristics as defined in the Equality Act 2010 are:
  - age
  - disability
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief
  - sex
  - sexual orientation
- General graffiti:
  - ‘Tags’ – the most prominent form of graffiti in most areas of the UK
  - Artistic – drawings, poetry etc
  - Other non-offensive writing or drawing

2.3 Graffiti is an important environmental issue for the borough because of the adverse effects it can have on areas. The presence of unauthorised graffiti is unsightly and may also contribute to the decline of an area.

2.4 Graffiti is costly to remove, and it can increase the perception of fear of crime and can be detrimental to community safety. It can 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 a business.

2.5 In October 2020, the council introduced a new customer relationship management system for Streetcare services called ‘My Council Services’ which includes the facility to report graffiti online.

2.6 As part of the council’s organisational restructure, the resource allocated to graffiti has increased by creating two new Environmental Response Officer posts to focus primarily on playground checks and graffiti removal.

2.7 These changes have prompted a review of our graffiti removal policy to provide customers with clarity and deliver a graffiti removal service that is efficient and sustainable within the resources and budget allocation.

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### 3 Proposed Policy

Ownership	Type	Action
<b>Council Owned Property</b>	<b>Non-offensive</b> <i>Under 2 metres in height*</i>	Removed from council owned property, parks, and highways within <b>five</b> working days unless the graffiti is on a specialist surface or listed buildings where contractors or consents may be required to carry out the work.
	<b>Offensive</b> <i>Under 2 metres in height*</i>	Removed from council owned property, parks, and highways within <b>one</b> working day unless the graffiti is on a specialist surface or listed buildings where contractors or consents may be required to carry out the work.
<b>Privately Owned Property both residential and commercial</b>	<b>All</b> <i>Under 2 metres in height*</i>	<p>The council does not have a statutory duty to remove graffiti on privately owned property, the council will offer advice and a basic graffiti removal service for a fee of £76 + VAT per hour which includes labour and materials.</p> <p>If the owner does not make their own arrangements for graffiti removal, the council may, after exhausting every other avenue, and in exceptional circumstances use other powers requiring land to be cleaned up. Before taking steps to exercise those powers legal and enforcement advice will be sought and adequate evidence to support any action will be required.</p> <p>In the case of property belonging to utility companies and statutory undertakers, the council will keep an up-to-date list of contact details (names, telephone numbers, email addresses) for each of these companies and will provide this to residents so that they can lodge their complaint directly with the relevant company.</p>

\* *The council's 'working at height' risk assessment determines that two metres is the highest we can work safely without using ladders or specialist equipment.*

*Graffiti on council owned property which is over two metres in height will be passed to the council's Property Services team who will arrange for a contractor to attend to take the action required to remove the infestation.*

*The council will not remove graffiti from private property, which is over two metres in height or on specialist surfaces, such as shop shutters, garage doors, listed buildings etc or from areas which are difficult to access or along waterways.*

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### **4 Graffiti Removal on Council Owned Property**

- 4.1 The council's key performance indicators for graffiti removal on council owned property will be:
- Five working days for non-offensive graffiti (under two metres in height) on Council owned property.
  - One working day for offensive graffiti (under two metres in height) on Council owned property.
- 4.2 Graffiti removed by the council will be photographed before and after removal so that the case can be referred to the Police via the Partnership Intelligence form or via their online reporting system.

### **5 Graffiti Removal from Private Property**

- 5.1 When we receive reports of graffiti on private property, we will make every attempt to contact the owner to discuss removal options and where possible the owner will be offered a fee-based removal service at a charge of £76 + VAT per hour which includes labour and materials. If the owner wishes to pursue this offer, a site visit will be arranged to ensure we are equipped to carry out the work and a detailed quote will be provided. If we are unable to carry out the work, we will advise the owner the reasons for this.
- 5.2 The council can only undertake removal of graffiti from private property if the owner is willing to sign a disclaimer releasing the council from any liability arising from the services being undertaken.
- 5.3 Timescales for the removal of graffiti on private property will be subject to agreement with the owner and the completion of the disclaimer.
- 5.4 Any income generated from the private graffiti removal service, will be ringfenced to support the staffing of the service.
- 5.5 If the owner does not wish us to remove the graffiti, we will ask them to source alternative removal companies to complete the works.
- 5.6 If the owner does not make their own arrangements for graffiti removal, the council may, after exhausting every other avenue, and in exceptional circumstances use other powers requiring land to be cleaned up. Before taking steps to exercise those powers legal and enforcement advice will be sought and adequate evidence to support any action will be required.

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### **6 Volunteers and Community Payback**

- 6.1 The Community Payback Scheme is run by the Her Majesty's Prison and Probation Service and projects such as graffiti removal can be nominated if they will benefit the wider community. This scheme is most suited to large, one-off infestations.
- 6.2 Volunteer groups and the Epsom Bid have expressed interest in assisting with small infestations of graffiti on both Council owned and private property in their local area. Officers are in the process of costing volunteer graffiti removal kits and developing health and safety guidance to provide to the volunteers.

### **7 Risk Assessment**

Legal or other duties

- 7.1 Impact Assessment
  - 7.1.1 None for this report
- 7.2 Crime & Disorder
  - 7.2.1 A clear policy for graffiti removal and joint working with the Police to bring offenders to account, will have a positive impact on crime and disorder in the borough.
- 7.3 Safeguarding
  - 7.3.1 None for this report
- 7.4 Dependencies
  - 7.4.1 None for this report
- 7.5 Other
  - 7.5.1 None for this report

### **8 Financial Implications**

- 8.1 This policy sets out a sustainable option for managing graffiti removal in the borough by offering a fee-based graffiti removal service to property owners.
- 8.2 The suggested fee is £76 per hour plus VAT, a total of £91.20 per hour, which includes labour and materials. This fee was agreed by Environment & Safe Communities Committee in January 2022.
- 8.3 Any income generated will be ringfenced to help support the staffing of the service to help during peak periods of infestation.

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- 8.4 **Section 151 Officer's comments:** As a new service, no income has been assumed in the 2022/23 budget for Graffiti removal. Finance officers will work with the service to understand the take-up of this proposal and ensure the proposed charge covers the cost of providing the private service.

### 9 Legal Implications

- 9.1 The Local Authority is responsible for removing graffiti from Council owned buildings and property
- 9.2 There are several legal powers that may be used to deal with offenders in relation to graffiti with three main pieces of legislation available to the Police or the council:
- **Criminal Damage Act 1971** - Graffiti and flyposting may amount to a criminal offence and Epsom & Ewell Borough Council can work with the police to prosecute offenders and authorise its officers to issue fixed penalty notices under the Criminal Damage Act 1971.
  - **Anti-social Behaviour Act 2003 ("2003 Act")** (as amended by The Clean Neighbourhoods and Environment Act 2005)- The council may choose to prosecute offenders using their powers under the 2003 Act which gives council officers the power to issue Fixed Penalty Notices (FPNs) for graffiti and flytipping offences.
  - **Anti-social Behaviour, Crime and Policing Act 2014 ("2014 Act")** - section 43 of the 2014 Act gives councils the power to issue Community Protection Notices (CPNs) against a wide range of behaviours, including graffiti.
- 9.3 Before taking steps to exercise any legal powers, legal and enforcement advice will be sought.
- 9.4 **Legal Officer's comments:** The adoption of the proposed graffiti policy will ensure that there is clarity and consistency on how graffiti is dealt with. It will also ensure that that the Council recovers costs associated with the removal of graffiti on non-Council owned land.

### 10 Policies, Plans & Partnership

- 10.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- 10.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 10.3 **Climate & Environmental Impact of recommendations:** None for the purpose of this report.

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- 10.4 **Sustainability Policy & Community Safety Implications:** Dealing effectively with offenders and providing an efficient graffiti removal service has a positive impact on community safety and fear of crime.
- 10.5 **Partnerships:** Tackling graffiti in the borough requires close working partnerships with Surrey Police, statutory undertakers, volunteers, and commercial/private property owners.

### 11 Background papers

- 11.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- None

**Other papers:**

- Fees and Charges 2022/23 - Appendix 1 to Environment & Safe Communities Committee on 25 January 2022