

REPORT TO:	CABINET
SUBJECT:	Tackling Graffiti in Croydon
LEAD OFFICER:	<i>Nick Hibberd, Corporate Director of Sustainable Communities, Regeneration and Economic Recovery</i> <i>Steve Iles Director of Sustainable Communities</i>
CABINET MEMBER:	Cllr Scott Roche - Cabinet Member Streets & Environment
WARDS:	All

SUMMARY OF REPORT:

This report presents the council's approach with an enhanced Graffiti service, which is the fulfilment of a key Manifesto commitment set out by the Executive Mayor. It sets out the Council's approach for an increased focus on removing illegal, antisocial, offensive graffiti, including non-offensive graffiti across the borough.

Graffiti is an issue which is seen across the borough, and which impacts on the image of our town.

This paper sets out the Council's framework and plans to increase resources to tackle and reduce the negative impact graffiti has on the quality of life for residents and businesses.

This new policy direction will allow graffiti enforcement and removal resources to focus on where they are needed, to improve local environmental quality, help reduce fear of crime, whilst helping increase pride in Croydon.

FINANCIAL IMPACT:

Financial impacts arising from the recommendations of this report are:

- The estimated £0.5m cost of the enhanced graffiti service will be financed in 2022/23 from the Streets & Neighbourhoods earmarked reserve
- The cost in future years will need to be the subject of a growth bid as part of 2023/24 budget setting, this will include exploration of Community Infrastructure Levy funding. The future service will be tailored to be delivered within the available resources.

KEY DECISION REFERENCE NO.: 3322EM

1. RECOMMENDATIONS:

For the reasons set out in the report and its appendix, the Executive Mayor in Cabinet is recommended:

- 1.1. To approve the plans for tackling graffiti across the borough.
- 1.2. To approve the additional expenditure of £0.5m as set out in section 4 of the report.
- 1.3. To approve the additional services being commissioned through the existing highways contract.
- 1.4. To approve a holistic task-force approach to clean up specific areas which would include graffiti.
- 1.5. To approve the council may charge property owners to recover its costs for the removal of graffiti.
- 1.6. To approve the draft Graffiti and Street Art Policy as set out in appendix 1.
- 1.7. To approve Officers to explore the options from external providers which support Croydon's financial and social value priorities.

2. BACKGROUND

- 2.1 This report presents the council with proposals for an enhanced Graffiti service. It sets out our approach for an increased focus on removing illegal, antisocial and offensive and non-offensive graffiti. Tackling graffiti is a mayoral priority with commitments to reinstate a full graffiti service.
- 2.2 Graffiti can be defined as any drawings, scribbles, messages or 'tags' that are painted or written on walls and other surfaces. Graffiti is criminal damage and costs the UK over £1 billion per year. For the purposes of this report, we are not including 'Graffiti-Art', where this is commissioned or tolerated by the owner of the surface.
- 2.3 The graffiti service was removed in 2020/21 as result of the serious governance and financial challenges that Croydon Council faced and formed part of the financial recovery agreed in the first phase of the Croydon Renewal Plan. In the year before the service deletion, the service removed approximately 12,000 items of graffiti, with 262 of these being classed as 'offensive' graffiti.

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- 2.4 Following the removal of the previous service in 20/21, Croydon has experienced increased reporting of the level of graffiti in some parts of the borough, which has the potential to drive away inward investment into those areas.
- 2.5 Linked to this report are plans to increase resources to tackle unwelcome, antisocial, and offensive graffiti. By reinstating this service, it will allow graffiti enforcement and removal resources to focus on where they are needed, to improve local environmental quality, help reduce fear of crime and increase resident satisfaction.
- 2.6 The Council is directly responsible for removing graffiti from its property and is only indirectly responsible for other graffiti. Priority continues to be given to removing offensive graffiti, where it is considered racially offensive, hostile to a religious or belief group, sexually offensive, homophobic, depicts a sexual or violent act or is defamatory.
- 2.7 Additionally, the council may choose to remove Graffiti which is deemed to be detrimental - factors might include the surface area covered by the graffiti, local complaints and the degree and nature of the graffiti problem in the area.
- 2.8 Less priority has been given to removing street art in those areas where it is more welcome. Some residents and businesses believe street art can positively contribute to the appearance of an area, attract visitors and is good for business.
- 2.9 In the absence of a clear policy on how to deal with graffiti and street art we have previously followed national guidance and legislation. Where either of these is unwanted and appears without consent, this is viewed as an interference with the property owner's rights and as such the person has committed a criminal offence under the Criminal Damage Act 1971.
- 2.10 Appendix 1 details the draft Croydon Graffiti and Street Art policy where it is intended to set out the Council's position. If the policy is adopted, it will give clarity on how to deal with these issues moving forwards and provides the basis for a discussion on what constitutes street art, and what may be considered as graffiti and therefore dealt with accordingly.

3. CURRENT ARRANGEMENTS

- 3.1 Legislation for removal of graffiti places the responsibility to remove graffiti on the owner, resident, or managers of the property. The council remove graffiti from council owned property and take action to

encourage removal of graffiti from private property, where it is visible from the public highway.

- 3.2 Local Authorities have powers to serve graffiti removal notices to enforce removal on private land. As part of our new approach, we will try to work with landowners to encourage them to take action to remove graffiti, but, if necessary, would use available enforcement powers. section 43 Antisocial Behaviour Crime and Policing Act 2014 gives local authorities the power to serve graffiti removal notices on certain bodies responsible for the surface where graffiti has appeared. These bodies include the owners of street furniture (bus shelters, street signs, phone boxes etc.). The notice gives a minimum of 28 days for the removal of the graffiti, if after that time it has not been removed the local authority can remove it and can recover its costs.
- 3.3 Where graffiti is identified on property owned by Businesses, Registered Social Landlords, Private Landlords, Network Rail and Transport for London our teams work with these property owners to ensure they remove their own graffiti.
- 3.4 Further enforcement powers are available to the council to deal with graffiti offenders such as the issuing of Community Protection Notices, which can be used to help prevent individuals, aged 16 or over from doing specified things, including graffiti tagging.

4. FINANCIAL CONSIDERATIONS

- 4.1 With the Mayor making a manifesto commitment to tackle graffiti, £0.5m has been set aside from the 22/23 earmarked reserves. Further work is needed during the budget setting process for 23/24 to ensure sufficient monies are allocated to sustain a fit for purpose graffiti service. Community Infrastructure Levy funding will be explored as a potential source of funding the service. The scope and scale of the service will be designed to be delivered with the available resources.
- 4.2 The arrangements for 22/23 will allow of up to £0.5m to be spent on additional graffiti removal teams to help tackle the current backlog and to allow for more proactive removal of graffiti where required. This first year of operation of the enhanced service will allow the council to establish the reporting processes and operational plans with new teams brought into service from June 2022. These resources have been in place to undertake a targeted find and clean activity on highway property. This is to be based on known graffiti hotspots within the borough.
- 4.3 It is envisaged that with additional dedicated teams in place and a revised framework for managing the service, there will be a significant visible impact, both in terms of the speed of removal, return visits and ensuring a cleaner environment

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- 4.4 The council will also develop proposals for introduction of a chargeable anti-graffiti coating service along with advice on graffiti prevention. This will reduce future costs of removing graffiti.
- 4.5 In addition, we will be reviewing operational plans to work more closely with Community Payback teams. The Community Payback scheme, hosted by the London Community Rehabilitation Company (LCRC), provides local communities the opportunity to suggest suitable areas for offenders to rejuvenate as part of their Community Order. LCRC works with offenders aged 18 and over who have been either sentenced by the courts to a Community Order or Suspended Sentence Order or released on licence from prison to serve the rest of their sentence in the community. Community Payback projects include removing graffiti, litter removal and environmental improvements. As part of developing plans the council will aim to carry out regular Community Payback Graffiti removal project.
- 4.6 The Council will work with Resident Associations, Friends' Groups and others, to look at how some areas might be cleaned via the Council providing support for materials which such groups may utilise themselves.
- 4.7 A taskforce approach will be set up to coordinate the clean-up of particular areas that have been identified from reporting, which would include the removal of graffiti alongside dealing with other anti-social issues.

5. CLEARING UNWANTED, OFFENSIVE, RACIST, AND ANTISOCIAL GRAFFITI FROM WHERE IT IS NOT WANTED

- 5.1 Offensive Graffiti removal is carried out by our current Highways contractor. Within the specifications, highways contractor is tasked to remove offensive graffiti within 24 hours and non-offensive graffiti within 10 working days.
- 5.2 Non-offensive graffiti is only to be removed on council property. Private landlords or other housing management organisations can request the council to remove graffiti on their property. They will be asked to sign a disclaimer to exonerate the council of any responsibility if the action of removing graffiti causes damage to a property. –
 - **On public buildings or highways and street furniture** – removed for by the council
 - **On a Council Housing Estate** – clearance is organised via the local housing officers through the Highways contract and charges covered by the Housing Revenue Account (HRA).
 - **Where graffiti is reported on private land**, the Council will seek to contact the landowner and where necessary serve notice requiring them to remove the graffiti. Should the landowner fail to comply with

terms of the notice, the Council has the power to remove the graffiti and recover the cost from the landowner.

- **On property and estates roads managed by private landlords** - Removal of graffiti on private property is the responsibility of the owner(s). Many have their own graffiti removal teams in place so in the first instance, the council's contact is via the relevant housing office or managing agents to organise graffiti removal.
- **On other private property** – Many individual owners/occupiers of private dwellings do not have access to a graffiti removal facility. If the graffiti is not too large and is accessible, the council may arrange for its removal subject to a disclaimer being signed by the owner of the property. There may also need to be agreement to pay to cover the council's costs. Subsequent graffiti removal requests would normally be subject to a charge, with such charges being set as part of the Fees and Charges annual review.
- There will also be a more targeted use of clearance teams to deal with hotspots, problem areas and locations suffering from repeated graffiti incidents. However, efforts will be hampered by the sheer volume of graffiti across the borough, built up over several years but more recently due to the withdrawal of the service in 2020/21.

6. INITIAL REINSTATED SERVICE

- 6.1 The highways contractor (FM Conway) has the ability to flex the service offer to contribute to a 'blitz' clean-up approach to a particular area. This is to be undertaken in conjunction (and coordination) with other responsible property owners to remove graffiti on all surfaces. The Council may give notice to property owners to engage in the process, reserving the right to charge for removal as part of this 'blitz' approach. The intention is to clean an entire area to fulfil the Mayoral commitment to improve local environmental quality, help reduce fear of crime, whilst helping increase pride in Croydon
- 6.2 The reporting of graffiti on public land can be undertaken via the LoveCleanStreets app, and is automatically imported to Confirm, the Highways Asset Management system used to generate works orders for the highways contractor. This ensures there is little or no delay between the time a resident reports graffiti to the time the works order is generated to the contractor.
- 6.3 Picture reporting of before and after is used to validate the removal, and confirmation is made to the reporting email address to indicate that the graffiti has been removed.
- 6.4 Mapping of the reporting, progress and completion is available through Confirm.

7. CONSULTATION

- 7.1 Section 3 of the Local Government Act 1999 places a duty on local authorities to consult certain “representatives” for the purpose of deciding how to fulfil its best value duty. However, as it is proposed to rely on existing contractual arrangements, rather than to make any high-level changes in how the Council delivers these services, it is considered that the duty to consult will not apply
- 7.2 Graffiti reported by members of the public on the Council’s public highway network will be assessed / considered for appropriate action.

8. OPTIONS CONSIDERED AND REJECTED

- 8.1 Officers have carried out background research to explore potential options available for managing graffiti, street art and defacement, taking into consideration best practice from across other local authorities, with the main alternatives set out below:
- 8.2 Taking no action - The council will not take any action to remove any graffiti or defacement regardless of its location unless it is deemed to be of an offensive nature.
- 8.3 Offensive only removal - The council will not take any action to remove any graffiti or defacement regardless of its location unless it is deemed to be of an offensive nature.
 - 8.3.1. Neither of the above approaches are recommended because graffiti or defacement will increase in the borough, which will deteriorate local environmental quality, increase fear of crime, and reduce resident satisfaction in their neighbourhoods
- 8.4 Borough-wide ban - No graffiti or defacement of any form in any location or surface will be tolerated by the council and will be removed. This is not realistic as it fails to recognise the benefit of street art and is unrealistic to enforce.
- 8.5 Designated areas and graffiti walls - Allow inoffensive graffiti and street art in designated areas and surfaces within the borough. This is not recommended because previous experience by other local authorities shows that graffiti was left beyond designated areas and difficult to contain in designated areas.
- 8.6 Bringing the service in house. This option was considered and rejected due to the relatively high cost and difficulty in mobilising quickly given the need to recruit staff and purchase specialist equipment.

- 8.7 Using the Waste Services Contract to undertake the work. This option was rejected as whilst graffiti removal was an item within the schedule of rates, the contract was not resourced to undertake this function immediately and the costs associated would have been prohibitive.
- 8.8 Rejected in the short-term, but a future aspiration for service delivery is to enable external contractors (including SMEs) to bid. This was rejected in the short term, as there was insufficient time before mobilising to undertake graffiti removal. If the council decides not to use the highways contractor to continue with the graffiti removal day rate option as part of a medium-longer term procurement strategy, there would need to be a Tender opportunity for any contract work due to the value of the proposed works. A tender which considers the social value added to the contract could encourage local businesses to bid for the work.

9. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 9.1 As a key Mayoral pledge, we are committed to tackling the 'broken window effect' to improve areas as part of an overall clean-up, to encourage investment and tackle low-level anti-social behaviour.
- 9.2 The decision to use the highways contractor contract to deliver this service reflects the relative ease of adaptation to this demand, as this contractor is currently undertaking the removal of offensive graffiti in the borough and has provided a competitive rate for non-offensive graffiti as part of the competitive tendering exercise in 2018. This option represents value for money and continuity of service.

10. RISK ASSESSMENT CONSIDERATIONS

- 10.1 The lack of clear policy and action on tackling the increasing levels of graffiti across the borough would lead to an ever-worsening situation with graffiti.
- 10.2 The lack of a clear approach would risk our ability to deliver on priority outcomes for the borough.
- 10.3 The council undertakes to conduct a 'before and after' analysis to determine the value of the service commissioned through the highways contractor, and any 'return rate' of graffiti to a recently-cleaned area.

11. FUTURE SAVINGS/EFFICIENCIES

- 11.1 At present there are no future savings or efficiencies as this is a reinstatement of a previously removed service. Once the service has been established there may be opportunities for income generation through graffiti removal services on behalf of other organisations or private companies in addition to the proposals for introduction of a chargeable anti-graffiti coating service.
- 11.2 Approved by: Darrell Jones, Acting Head of Finance – Sustainable Communities, Regeneration & Economic Recovery

12. LEGAL CONSIDERATIONS

- 12.1 The Council has power under section 43 of the Anti-social Behaviour Act 2003 as amended by the Clean Neighbourhoods & environment Act 2005 to issue fixed penalty notices to anyone caught doing graffiti. The Environmental Offences (Fixed Penalties) (England) Regulations 2017 which came in force on 1st April 2018 amended the penalty charge for this offence.
- 12.2 In addition under section 43 Antisocial Behaviour Crime and policing Act 2014, the council has power to issue a Community Protection Notice to an individual aged 16 or over, or a body requiring the person or body to stop doing specified things, to do specified things or take reasonable steps to achieve specified things, if satisfied on reasonable grounds that: (a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and b) the conduct is unreasonable.
- 12.3 Any conduct on or affecting premises is to be treated as the conduct of the owner or occupier.
- 12.4 Where a person issued with a community protection notice fails to comply with requirement of the notice, the Council may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. Where the premises is not open to the air, the Council would first need to issue a notice specifying the work it intends to have carried out to ensure that the failure is remedied, the estimated cost of the work, and invite the defaulter to consent to the work being carried out before doing so. The consent must be obtained from the defaulter and the owner of the premises on which the work is to be carried out unless the authority is unable to contact the owner after making reasonable efforts to do so.
- 12.5 A person who fails to comply with a Community Protection Notice commits a criminal offence and on conviction if an individual, liable to a fine not exceeding level 4 (£2,500) or if a body, to a fine not exceeding £20,000.

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- 12.6 Additionally, the Council has powers under section 1 of the Antisocial Behaviour Crime and Policing Act 2014 to apply for an injunction to compel the owners and occupiers of premises to remove graffiti from premises.
- 12.7 When carrying out its duties under this policy, the Council will be obliged to comply with its duties under section 149 of the Equality Act 2010 that is, the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relations between people who share a protected characteristic and those who do not.
- 12.8 The Council has powers to enter into arrangements with private owners for the removal of graffiti under its general power of competence in Sec 1 of the Localism Act 2011 and to charge for providing this service under Sec 3 of that Act.
- 12.9 Approved by Sandra Herbert, Head of Litigation and Corporate Law and Deputy Monitoring Officer on behalf of the Director of Legal Services and Monitoring Officer.

13. HUMAN RESOURCES IMPACT

- 13.1 The report recommends the recruitment of a temporary administrator to assist with the administrative works whilst the development of the Lovecleanstreets App. This will be managed under the Council's Recruitment Policy. Other than this issue there are no other Human resources impacts arising from this report.
- 13.2 If any should arise these will be managed under the Council's Policies and Procedures.
- 13.3 Approved by: Jennifer Sankar, Head of HR Housing Directorate & Sustainable Communities, Regeneration and Economic Recovery, for and on behalf of Dean Shoemith, Chief People Officer

14. EQUALITIES IMPACT

- 14.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore, have due regard to:
- I. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - II. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - III. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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- 14.2 It is imperative to ensure that graffiti that is targeted at any protected characteristic is removed at the earliest opportunity. Such graffiti is offensive, demeaning and has a negative impact on the lived experience of people belonging to protected characteristics. The removal of such graffiti may reduce perceptions of fear of crime in individuals who belong to protected characteristics.
- 14.3 The Council developed a Hate Crime Pledge in 2019. Graffiti which is offensive to protected characteristics may potentially be classed as a hate crime and should be monitored and reported to the Community Safety Team.
- 14.4 The policy is expected to make a positive impact on the environment of the Borough, which will be beneficial for all regardless of their background.
- 14.5 The policy is expected to make a positive impact on the environment of the Borough, which will be beneficial for all regardless of their background.
- 14.6 Approved by: Denise McCausland – Equality Programme

15. ENVIRONMENTAL IMPACT

- 15.1 Plans are being developed to ensure that all new graffiti removal vehicles and equipment comply with clean air emission standards. Operational plans will include measure to reduce as much as possible any adverse impacts on air quality.

16. CRIME AND DISORDER IMPACT

- 16.1 The Council's activities for tackling litter, fly tipping, removal of graffiti and flyposting that are incorporated into the Waste Management Strategy. This work contributes to the Council's efforts in managing anti-social behaviour within the borough. Sustainable Communities division will continue to incorporate the current policy requirement for the immediate removal of racist or offensive graffiti from Council owned property.

17. DATA PROTECTION IMPLICATIONS

- 17.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 17.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

17.3 **NO**

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The Director of Sustainable Communities comments that the council's information management team have advised that a DPIA would not be required in this instance and that the subject of the report does not involve the processing of personal data. Once the council has developed the chargeable service a DPIA will be completed.

Approved: by Steve Iles, Director of Sustainable Communities, dated 29/09

CONTACT OFFICER: *Steve Iles. Director of Sustainable Communities,*
steve.iles@croydon.gov.uk, Tel: ext 52821

APPENDICES TO THIS REPORT: Draft Council Graffiti Policy

BACKGROUND DOCUMENTS – LOCAL GOVERNMENT ACT 1972

None.