

**STATEMENT OF POLICY  
REGARDING GRAFFITI**

<b>Version</b>	<b>Amendment</b>	<b>Approved by</b>	<b>Change Date</b>
Oct 22	Draft		
Dec 22	Consultation draft		

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### 1. Introduction

The purpose of this policy is to set out the Cheltenham Borough Council's ("the authority") approach for dealing with and preventing graffiti within the borough. It is to be read in conjunction with other related policies including:

- Council Corporate Enforcement Policy
- Environmental Services Strategy
- Fixed Penalty Notice Procedures (FPN)
- Community Protection Notice Procedures (CPN)

### 2. Background

Tackling graffiti is a challenge. This particular type of criminal damage has its own sub-culture with offenders creating large pieces of work in a short space of time. Offences are usually carried out under the cover of darkness making catching the offenders' very difficult and time intensive. It needs to be dealt with effectively to help prevent more serious crimes occurring in affected areas. Each instance of graffiti is costly to remove and has a financial implication for the authority, businesses and residents.

One of authority's key priorities is to deliver a number of town centre and wider public enhancements that will continue the revitalisation of the town. This will ensure its longer-term viability as a retail and cultural destination. Another key priority is to continue to enhance our public spaces, parks and gardens. Areas blighted by graffiti undermine these aims.

### 3. Aims

Such criminal activity can never be totally eradicated but by having a clear policy in place the authority aims to reduce the increasing instances of graffiti. In particular, it will:

1. Set out who is responsible for removing graffiti.
  1. Outline how graffiti will be removed.
  2. Define how quickly graffiti will be removed
  3. How we will work with partners to identify and take enforcement action
  4. Identify preventative measures.

## 4. Definitions

**Graffiti** is the illegal, anti-social and unauthorised defacing of a building, wall or other edifice or object by painting or otherwise marking it with words, pictures or symbols that creates a negative impression of an area and contributes to fear of crime within the community.

For the avoidance of doubt, the definition of graffiti does not include graffiti, street art or any other form of art involving graffiti that is either, or both, officially authorised or, undertaken with lawful permission from property owner(s). This includes, but not limited to, the local Paint Festival.

There are a wide variety of forms and styles of graffiti, of which the authority recognises six basic categories:

1. **Juvenile** – generally takes the form of “x loves y” type messages or lists of first names. They are usually written with felt-tip or marker pens.
2. **Tags** – stylised personal graphic identifiers depicting names or nicknames, which are often large and in bold colours. Tags can be pictorial, drawn free hand or using stencils, and are usually painted with spray cans or drawn with marker pens.
3. **Scratches** – marks caused by the deliberate use of a sharp instrument to cut into painted surfaces, wood, plastic, brick etc. However, if these scratches form words, then they should be classified as ‘juvenile’ or ‘tags’ as appropriate.
4. **Ghost** – graffiti which has been partially removed or has faded to such an extent that it has lost its initial visual impact.
5. **Contentious** – any graffiti which could be offensive to particular members of the general public. This would include any obscene, racist, political or religious graffiti.
6. **Stencil** – any graffiti which has been sprayed through a stencil, unless it is deemed that it forms a ‘tag’.

Almost anything can serve as a medium by which to create graffiti including paint, marker pens, chalk, pencils, knives and other sharp instruments

**Offensive graffiti** is graffiti that:

1. is racial, sexual, politically offensive, insulting to the general community or any wording that is reported by the public as offensive.
2. is, in the reasonable opinion of the officer, is offensive.
3. contains:
  - Offensive language
  - Language of a politically, racially, religiously insulting or inciting nature
  - Hate statements
  - Graphically explicit images sexual or violent nature
  - Graphically intimidating images or text
  - Images that are textually or visually offensive in context
  - Libellous or potentially libellous statements.

**Heritage crime** is any offence which harms the value of heritage assets and their settings and/or assets are sites which are considered to have a value to the heritage of England and include:

- Listed buildings
- Scheduled monuments
- World Heritage Sites

- Protected marine wreck sites
- Conservation areas
- Registered parks and gardens
- Registered battlefields
- Protected military remains of aircraft and vessels of historic interest
- Undesignated but acknowledged heritage buildings and sites.

## 5. Classification

The authority has defined 2 categories of graffiti to reflect the urgency of removal, reporting and data collection:

### **Priority 1 - Offensive Graffiti**

Graffiti must be removed within **14 days** of receiving formal notice from the authority requesting removal in accordance with Appendix 1 of this policy.

Failure to action this process may result in a Community Protection Notice (CPN) being issued.

### **Priority 2 - Other Graffiti**

Graffiti must be removed within **28 days** of receiving formal notice from the authority requesting removal in accordance with Appendix 1 of this policy.

Failure to action this process may result in a Community Protection Notice (CPN) being issued.

### **Discretion**

The authority expects action by responsible parties to ensure removal work is promptly scheduled to ensure removal work can be undertaken within the timescales referred to above.

In the event where responsible parties are unable to comply with the authority's direction(s), the authority might exercise discretion to extend the timescales, on a case to case basis, and, where there is clear evidence that action or steps have been taken to schedule the removal but, practical or logistical difficulties mean that timescales might be missed.

Responsible parties unable to comply with the authority's requirements, outlined above, must contact the authority in the first instance to discuss their case with the relevant officer.

## 6. Reporting

The authority needs to capture all incidents of graffiti to enable data driven decision making. The public and our partners are encouraged to report directly to the authority online at:

[https://www.cheltenham.gov.uk/info/55/street\\_care\\_and\\_cleaning/1547/graffiti](https://www.cheltenham.gov.uk/info/55/street_care_and_cleaning/1547/graffiti) or

by email at: [envhealth@cheltenham.gov.uk](mailto:envhealth@cheltenham.gov.uk)

Customers will be advised to also report to the police. Where this is a heritage crime the police report should be made to:

## 7. Different Sites and Assets

### Non-Council Owned

Where graffiti occurs on buildings and structures not owned by the authority such as statutory undertakers, utilities etc. A written request to remove the graffiti will be sent to the responsible person or body specifying time frame depending on the graffiti classification.

### Churchyards and Historic sites

Churchyards and historic sites may need further investigation and special consideration. If the churchyard is 'closed' the local authority have an obligation to maintain, and if necessary repair, but this responsibility, is limited to the level to 'make safe', the legal ownership of the churchyard remains unaffected.

The authority will remove graffiti in 'closed churchyards' where they have a maintenance responsibility.

If the graffiti is on a memorial, this belongs to, and is the responsibility of, the 'heirs at law' of the persons commemorated by them. These rights and liabilities remain unaffected by any transfer of maintenance to the local authority and the owner has responsibility for maintenance and repair. Where the heirs at law cannot be contacted, the removal responsibility will fall to the authority in 'closed churchyards'.

Historic sites are listed here <https://historicengland.org.uk/listing/the-list/map-search?postcode=GL509SA&clearresults=True>

## 8. Permission and indemnity

For occasions when the authority carries out removal work on buildings and structures it has responsibility for but does not own. No such work is to be carried out without first seeking the appropriate permission from the building owner and obtaining a completed indemnity form (see Appendix 2)

### Listed Buildings

Cheltenham has 2602 Grade 1 and 2 listed buildings. The statutory controls apply irrespective of grade. Listed building consent will be needed before carrying out any building works, however minor, which will affect the character or appearance of the listed building. It is a criminal offence to carry out works to a listed building without having first obtained listed building consent. Changing the colour will require consent as may the application of an anti-graffiti coating. Officers are not to recommend any such changes to business owners as part of preventative measures without first advising of this required consent. Removal of graffiti will not require consent but may need a specialist contractor.

Listed building advice can be sought from [builtenvironment@cheltenham.gov.uk](mailto:builtenvironment@cheltenham.gov.uk)

How to find out if a property is listed:

- search the National Heritage List for England on the [Historic England website](#)
- Use CBC [interactive map](#) located on GIS Terrier system internally to view the location of a listed building and its list description. Selecting each building will return information including listing grade and a detailed description

## 9. Enforcement

The police have primary responsibility and powers to prosecute for graffiti. Officers from the authority may also take enforcement action. Enforcement action will be taken by the most appropriate organisation and the most appropriate legislation to secure the best result depending on the details of the case.

Legislation relevant to officers of the authority

- Town and Country Planning Act 1990
- The Anti-social Behaviour, Crime and Policing Act 2014
- Criminal Damage Act 1971
- The Highways Act 1980

## 10. Prevention

The authority will aim to work in partnership with others such as the Police, Trading Standards and Cheltenham Borough Homes to seek to identify and prosecute offenders. The authority is committed to partnership working to address Community Safety, Crime and Disorder and Environmental Crime issues. The authority will work with the Neighbourhood Policing Team to seek to identify offenders by providing photographs of offensive and racially motivated graffiti or where a 'Tag' has been identified at three or more sites.

Advice will be given to building owners on how to prevent incidents of graffiti and Officers can seek assistance from the Designing out Crime Officer (DOCO) of Gloucestershire Constabulary. Measures will include:

- Reducing the rewards by rapidly removing graffiti through the above process of responsibilities
- Advising businesses on prevention measures such as treating the surface with a protective covering, to allow for easier cleaning should it happen again or repainting the area, so any future graffiti can be covered over.
- Consideration of the deployment of one of the authority's or Police mobile CCTV cameras
- Creating a shortcut in bureaucracy so future damage can be removed in a timely manner
- Brief all authority staff on the action they can take if they see or witness acts of graffiti
- Work with our Townscape team to build prevention into design
- Use regular communications and social media to highlight the detrimental effects of graffiti
- Work with the Business Improvement District (BID) to support Community Clean up Days
- Maintaining a database of all graffiti and street art together with detailed case notes using Uniform.
- Use Street art as an alternative outlet. The interactive map from Cheltenham paint festival can be used to view current works  
[https://www.google.com/maps/d/viewer?mid=1PzE5hrRvy4spdeLwyvq4rGK\\_NihdnHOz&ll=51.89862337780278%2C-2.0974251591769133&z=17](https://www.google.com/maps/d/viewer?mid=1PzE5hrRvy4spdeLwyvq4rGK_NihdnHOz&ll=51.89862337780278%2C-2.0974251591769133&z=17)
- Identify prolific offenders in conjunction with the Neighbourhood Policing Team Police [receptioncheltenham@gloucestershire.pnn.police.uk](mailto:receptioncheltenham@gloucestershire.pnn.police.uk)
- Work with Solace for any case than needs a multi-disciplinary approach
- Ask the community to continue to report any graffiti
- Officer engagement at Community Partnership meetings

## Appendix 1

### Authority Owned Building and Assets

Priority level 1	Responsibility	Priority level 2	Responsibility
Removal within 14 days	Removal will be carried out by the authority's contractor.	Removal within 28 days	Removal will be carried out by the authority's contractor.

### Residential properties

Priority level 1	Responsibility	Priority level 2	Responsibility
Removal within 14 days	Removal will be carried out by the authority's contractor at the discretion of the Partnership Manager.	Removal within 28 days	A written request to remove the graffiti will be sent to the owner/occupier specifying time frame.  Responsibility will sit with the owner/occupier.

### Commercial/business/non-residential properties

Priority level 1	Responsibility	Priority level 2	Responsibility
Removal within 14 days	A written request to remove the graffiti will be sent to the responsible person or body specifying time frame.  Responsibility will sit with the responsible person or body.	Removal within 28 days	A written request to remove the graffiti will be sent to the responsible person or body specifying time frame.  Responsibility will sit with the responsible person or body.

### Churchyards and Historic sites

Priority level 1	Responsibility	Priority level 2	Responsibility
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Removal within 14 days	<ul style="list-style-type: none"> <li>• If the churchyard is 'closed' the local authority have an obligation to maintain, and if necessary repair, but this responsibility, is limited to the level to 'make safe', the legal ownership of the churchyard remains unaffected.</li> <li>• The authority will remove graffiti in 'closed churchyards' where they have a maintenance responsibility.</li> <li>• If the graffiti is on a memorial, this belongs to, and is the responsibility of, the 'heirs at law' of the persons commemorated by them<sup>1</sup>.</li> <li>• Where the heirs at law cannot be contacted, the removal responsibility will fall to the authority in 'closed churchyards'.</li> </ul>	Removal within 28 days	<ul style="list-style-type: none"> <li>• If the churchyard is 'closed' the local authority have an obligation to maintain, and if necessary repair, but this responsibility, is limited to the level to 'make safe', the legal ownership of the churchyard remains unaffected.</li> <li>• The authority will remove graffiti in 'closed churchyards' where they have a maintenance responsibility.</li> <li>• If the graffiti is on a memorial, this belongs to, and is the responsibility of, the 'heirs at law' of the persons commemorated by them<sup>1</sup>.</li> <li>• Where the heirs at law cannot be contacted, the removal responsibility will fall to the authority in 'closed churchyards'.</li> </ul>
Other assets and structures			
Priority level 1	Responsibility	Priority level 2	Responsibility

<sup>1</sup> These rights and liabilities remain unaffected by any transfer of maintenance to the local authority and the owner has responsibility for maintenance and repair.

Removal within 14 days	Owner/person/body responsible depending on the individual circumstances of each case.	Removal within 28 days	Owner/person/body responsible depending on the individual circumstances of each case.
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