

STATEMENT OF POLICY REGARDING UNAUTHORISED OR UNWELCOME GRAFFITI

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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 unauthorised or unwelcome graffiti within the borough. It is to be read in conjunction with other related policies including:

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

2. Background

Tackling unauthorised or unwelcome 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 often 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.

The effectiveness of awareness can be split in to three categories:

- Deterrence – CCTV usage/Anti-Graffiti paints/Lighting to improve observations.
- During – Online reporting methods/Encouraged reporting from Private/Business

property owners.

- Aftermath – Cleaning costs, Damages to location, cost to rectify damage, Identification of further deterrents.

Each instance of unauthorised or unwelcome graffiti is costly to remove and has a financial implication for the authority, businesses and residents.

One of the 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 unauthorised or unwelcome 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 unauthorised or unwelcome graffiti. In particular, it will:

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

4. Definitions

Graffiti is the illegal, anti-social and unauthorised or unwelcome graffiti defacing any public space 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.

Unauthorised or unwelcome graffiti can be defined as any informal or illegal marks, drawings or paintings that have been deliberately made by a person or persons on any physical structure in the outdoor environment, usually with a view to communicating some message or symbol, etc. to others.

For the avoidance of doubt, the definition of unauthorised or unwelcome 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 unauthorised or unwelcome 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, burnt into a surface with a lighter 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, racial 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, adhesive labels, lighters, knives and other sharp instruments

Offensive graffiti is graffiti that can be defined as:

1. is racist, sexual, insulting to the general community or any wording that is reported by the public as offensive.
2. is, in the reasonable opinion of the authority offensive.
3. contains:
 - Offensive language
 - Language of a 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 unauthorised or unwelcome graffiti to reflect the urgency of removal, reporting and data collection:

Priority 1 - Offensive

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

to the property or Premises/Business owner.

Priority 2 - Other

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.

The authority's discretion in the first instance will fall to the investigating officer under delegated patch area, once assessment has taken place by the officer and a schedule of works planned, discretion may be applied considering circumstances of availability and appropriation.

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.

The relevant officer for the offence is an officer from the Neighbourhood Team within the **authority**.

6. Reporting

The **authority** needs to capture all incidents of **unauthorised or unwelcome 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 or

by email at: envhealth@cheltenham.gov.uk

Customers will be advised to also report to the police. **Via 999 or 101 depending on their perceived threat level**, where this is a heritage crime the police report should be made to:

<https://www.gloucestershire.police.uk/ro/report/rwc/rural/report-rural-crime/>

7. Different Sites and Assets

Council Owned

Where **unauthorised or unwelcome graffiti** occurs on buildings and structures owned by the authority, the responsibility will reside with the authority to remove the it (or responsible agency as defined by various service level agreements).

Non-Council Owned

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

This process will be monitored through our internal Uniform system used by the patch officers within the Neighbourhood team, the officer will manage the expected timeframe and use discretion when appropriate concerning works scheduled to either extend or enforce the original timeframe requested.

Churchyards and Historic sites

Churchyards and historic sites may need further investigation and special consideration. Such as removal methods from grade listed sites, surface requirements to specific sites and also the location of a specific site. If the churchyard is 'closed' to 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 **unauthorised or unwelcome graffiti** in 'closed churchyards' where they have a maintenance responsibility.

If the **unauthorised or unwelcome 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.

Listed Building includes out buildings such as Monuments and Graveyard Crosses

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 unauthorised or unwelcome graffiti will not require consent but may need a specialist contractor. Listed building advice can be sought from 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 related offences. Officers from the authority may will 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:

- Criminal Damage Act 1971
- The Anti-social Behaviour, Crime and Policing Act 2014
- Town and Country Planning Act 1990
- 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 unauthorised or unwelcome graffiti and Officers can seek assistance from the Crime Prevention team/department of police.

Measures can include:

- Reducing the rewards by rapidly removing unauthorised or unwelcome graffiti through the above process of responsibilities
- Advising residents and 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 **unauthorised or unwelcome graffiti** can be covered over.

- Consideration of the deployment of ~~one of the Council's or Police mobile~~ CCTV cameras
- Creating a shortcut in Listed Building and Heritage 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 **unauthorised or unwelcome graffiti**
- Work with the **authority's** Townscape and the police's Designing Out Crime Officer (DOCO) team to build prevention into design
- Use regular communications and social media to highlight the detrimental effects of **unauthorised or unwelcome graffiti**, and ask for the community to help
- Work with the Business Improvement District (BID) to support Community Clean up Days
- Maintaining a database of all **unauthorised or unwelcome graffiti** and street art together with detailed case notes **using the authority's case management system.**
- 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
- Develop and utilise techniques to identify prolific offenders in conjunction with the Neighbourhood Policing Team Police
receptioncheltenham@gloucestershire.pnn.police.uk
- Work with Solace for any case that needs a multi-disciplinary approach
- Ask the community to continue to report any **unauthorised or unwelcome graffiti**
- Officer engagement at Community Partnership meetings

Other Solutions

- Engage with groups and understand their reasons why they create graffiti
- Establish areas where graffiti is acceptable

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 unauthorised or unwelcome 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 unauthorised or unwelcome 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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<p>Removal within 14 days</p>	<ul style="list-style-type: none"> • If the churchyard is 'closed' to 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 unauthorised or unwelcome 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 them¹. • Where the heirs at law cannot be contacted, the removal responsibility will fall to the authority in 'closed churchyards'. 	<p>Removal within 28 days</p>	<ul style="list-style-type: none"> • If the churchyard is 'closed' to 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 unauthorised or unwelcome graffiti in 'closed churchyards' where they have a maintenance responsibility. • If the unauthorised or unwelcome graffiti is on a memorial, this belongs to, and is the responsibility of, the 'heirs at law' of the persons commemorated by them¹. • Where the heirs at law cannot be contacted, the removal responsibility will fall to the authority in 'closed churchyards'.
<p>Other assets and structures</p>			

Priority level 1	Responsibility	Priority level 2	Responsibility
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.

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