

Briefing Note

Title: Current Process and Future Plans for Tackling Graffiti Across the City

Date: December 2022

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Job Title: Environmental Place Based Development Manager

Intended Audience: Internal Partner organisation Public Confidential

Purpose

The purpose of this paper is to outline for the Scrutiny board

- The current activity/demand on the service
- The scope of the team
- The process for addressing graffiti on private property through enforcement

Background

Currently CWC will remove all offensive graffiti across the city and graffiti on our own property. In addition to this, where resources allow, we will also support the removal of graffiti at key locations in the City as long as we have the building owners permission, (for example we are currently removing graffiti from the Beatties building as we have had a signed indemnity form from the owners(See Appendix C)).

We cannot remove graffiti from private property unless we have express permission.

Current Service Activity

From 01 January 2022 to 31 October 2022 the service had 303 enquires through Customer Services requesting removal of graffiti which resulted in 244 removals, (this filters out private land and duplicate enquiries. In addition to this there were 136 enquires made direct to the service, either internally or through CEU/Director requests.

Service Requests by Ward

Ward	Count
Wednesfield South	46
St Peter's	45
East Park	30
Heath Town	28
Tettenhall Wightwick	23
Bilston East	18
Fallings Park	7
Graiseley	7
Merry Hill	7
Park	7

Ward	Count
Wednesfield North	5
Bushbury South and Low Hill	4
Tettenhall Regis	4
Ettingshall	3
Oxley	3
Penn	3
Blakenhall	2
Bilston North	1
Bushbury North	1
Grand Total	244

Developments of the Service

It is clear to anyone who has been into the city centre recently that the proliferation of graffiti on empty shops and development hoardings is getting worse. This affects how residents, visitors and businesses feel about the city and does not fit into CWCs ambitions to relight the city. In order to address this we must have a more proactive response to graffiti, both to its removal and its prevention.

Currently a Grade 04 operative is responsible for both the graffiti removal across the city and the jet washing cleansing. This is supplemented by one off 'contracted' deep cleanses when needed.

We are currently looking at other options within the service to increase this team in order for us to change from a wholly reactive service to be proactive service, to identify key locations across the city to work with other Placed Based Services to look for sustainable actions to ensure that once graffiti is removed, it doesn't return. It will be supported by the services Logistic Support to coordinate permissions to ensure that we have 'on record' so cleansing can be completed in a timely manner when graffiti appears.

Utility Boxes – Current Issues

We have many reports of graffiti on Utility boxes across the city. It is the Utility companies' responsibility to remove these, not the local authorities as removing the graffiti from these boxes could cause damage to the insides. When we have reports of this, we encourage to public to report this through the companies own reporting systems. The difficulties both we and the public have is it is not always clear who owns the boxes to report the issue to, and in our case, compel them to remove the graffiti is they haven't already done so in a timely manner. This would be made easier, if the information the planning department have around who has sought permission to install them on the highways was readily available to this could be used by customer services to support public reporting, and us use powers, (if appropriate), to remove.

A Holistic Approach

In order to address the issue of graffiti across the city we cannot work alone. CWC has not got the resources available to continually remove graffiti in the same locations. Key stakeholders across the city must work together to help prevent the issue of graffiti. This includes the prevention of graffiti happening by presenting less 'blank canvasses and target hardening across the whole city, (for example, Community Engagement, Use of street art in key locations to discourage 'tagging', use of Anti-Graffiti paint after graffiti removal).

In order to improve how our city looks and feels, all stakeholders have to work together to address this issue. This way we can ensure that building and land owners are given ample opportunity to remove the graffiti, (offensive or not), to support Wolverhampton to be a welcoming city.

In addition to the proposals that have been outlined in this paper, the service is working with colleagues in Regeneration Services to identify key development sites across the city, that can attract graffiti to use community partners, or CWC hoarding designs to use the space in a creative way and be less of a blank canvass. Joint meetings are being held to both identify potential community partners and funding to support this approach.

Enforcement to Support Graffiti Removal

Currently we do not use our enforcement powers to compel building owners to remove graffiti. If a building owner refuses to remove graffiti and/or permission for our team to take action, it stays. As part of the package of approaches that we are developing, we are also trialling using our enforcement powers to support the removal of graffiti, (See Appendix A).

It is proposed that when graffiti is identified, building owners are contacted asking them to remove the graffiti within a defined time period. If this doesn't happen it is proposed that a Community Protection Warning, (CPW), is issued, again asking for the building owner to remove the graffiti within a defined period of time. This step is proportionate as the threshold dictates

If following the issuing of the CPW there is still no action, a Community Protection Notice, (CPN) will be issued if we can evidence that may issue a CPN if satisfied that the conduct of an 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 that conduct is unreasonable. A CPN is not intended for trivial matters.

Finally, if the graffiti is still not addressed, we will have the option to remove the graffiti and pursue a Section 47 notice to recoup the costs. We will have permission to do this as the issue is in the open air. This charge will include the cost of removing the graffiti, (at an hourly rate) plus admin time. The legislation dictates that a local authority exercising or purporting to exercise a power under section 47(2) is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of that power. This does not apply to liability arising out of a failure to exercise due care and attention.

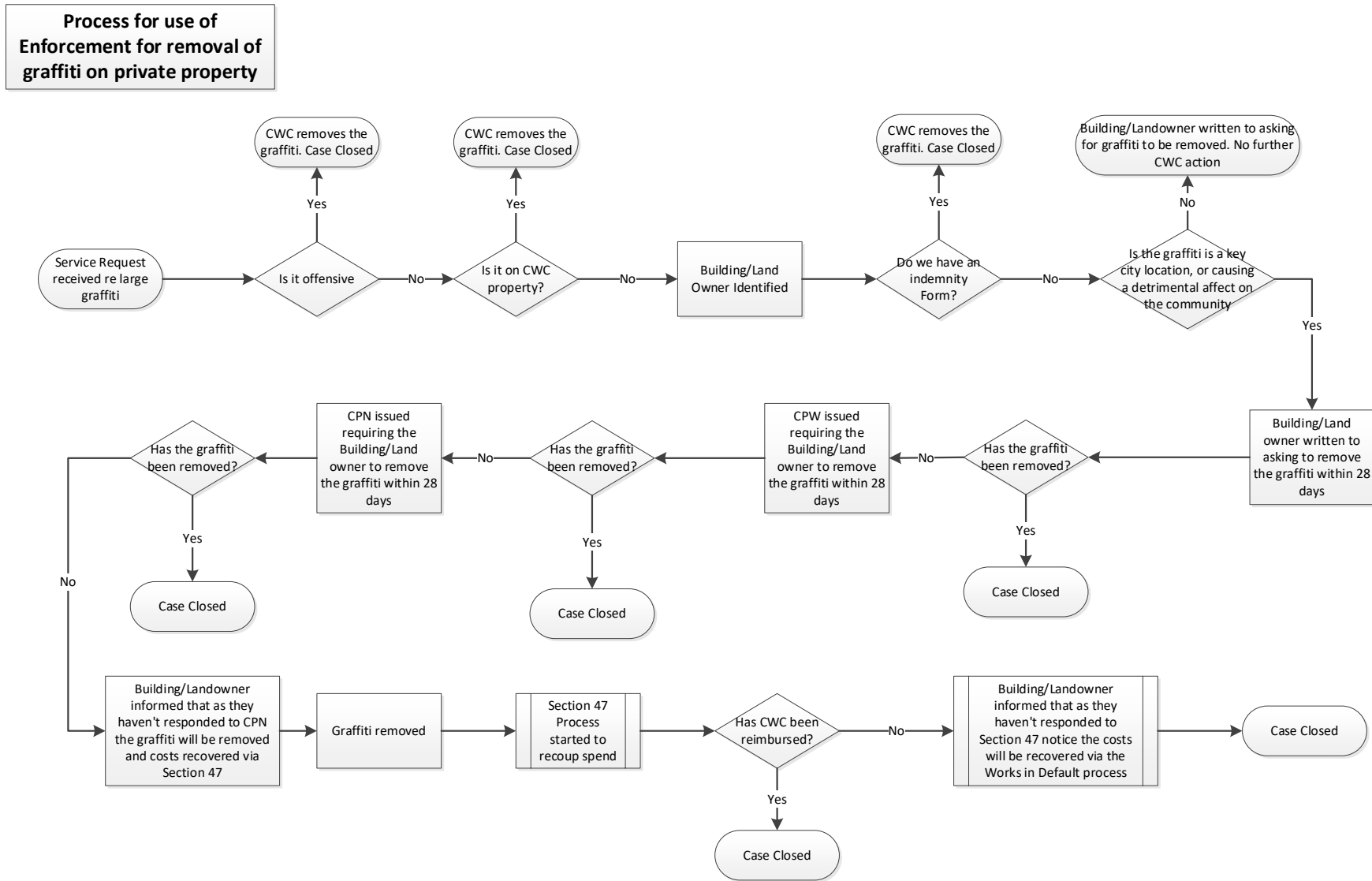
It is important to remember, that whilst we are taking a more robust enforcement approach, this is not about the enforcement or about the cost, (if it was, we would be pursuing a Fixed Penalty Notice, (FPN)), this is about getting to the point where we can remove the graffiti that Building/Landowners are refusing to address to improve the city.

It must however be noted that we have to be able to evidence that we have done everything within our power to identify the owners of the property where the graffiti is before we take action without indemnity

Legal Support

The above process has been reviewed by colleagues in Legal Services and they have supported the approach, (Please see Appendix B).

Appendix A - Graffiti Enforcement Process



Appendix B

USE OF COMMUNITY PROTECTION NOTICE SEEKING THE REMOVAL OF GRAFFITI

THE LAW

Anti-Social Behaviour Crime and Policing Act 2014 Part 4 Community Protection Chapter 1 Community Protection Notices

S53 Authorised persons

S53 States that a Community Protection Notice (CPN) may be issued by the relevant local authority within whose area the conduct specified in the notice has been taking place.

S43 Power to issue notices

(1) Under S43 an authorised person may issue a CPN if satisfied that the conduct of an 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 that conduct is unreasonable.

(3) A CPN is a notice that imposes (a) a requirement to stop doing specified things; (b) a requirement to do specified things; (c) a requirement to take reasonable steps to achieve specified results.

(4) The only requirements that may be imposed are ones that are reasonable to impose in order (a) to prevent the detrimental effect from continuing or recurring, or (b) to reduce that detrimental effect or to reduce the risk of its continuance or recurrence.

(5) A CPN can only be issued if the individual or body concerned has been given a written warning and sufficient time has been given to deal with the matter.

(7) A CPN must identify the conduct of concern and the effect of sections 46 to 51.

(8) A CPN community protection notice may specify periods within which, or times by which, requirements within subsection (3)(b) or (c) are to be complied with.

S44 Occupiers of premises etc

S45 Occupier or owner unascertainable

S46 Appeals against notices

S47 Remedial action by local authority

(1) Where “the defaulter” fails to comply with a requirement of the notice, the local authority may take action under subsections (2) or (3) (or both).

(2) The local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air.

(3) As regards premises other than land open to the air, if the local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given.

(4) “the necessary consent”

(5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air.

(6) If work is carried out under subsection (2) or (3) and the local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).

(7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within 21 days beginning with the day on which the notice was issued, on the ground that the amount specified is excessive.

(8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

S48 Offences of failure to comply with notice

Section 49 Remedial Orders

S50 Forfeiture of item used in commission of offence

S51 Seizure of items used in commission of offence

S52 Fixed Penalty notices

S53 Authorised persons

SUPPLEMENTAL

54 Exemption from liability

(1) A local authority exercising or purporting to exercise a power under section 47(2) is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in the exercise or purported exercise of that power.

(2) A person carrying out work under section 47(2), or a person by or on whose behalf work is carried out under section 49(2)(b), is not liable to an occupier or owner of land for damages or otherwise (whether at common law or otherwise) arising out of anything done or omitted to be done in carrying out that work.

(3) Subsections (1) and (2) do not apply—

- (a) to an act or omission shown to have been in bad faith, or
- (b) to liability arising out of a failure to exercise due care and attention.

(4) Subsections (1) and (2) do not apply so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of [section 6\(1\)](#) of the Human Rights Act 1998.

(5) This section does not affect any other exemption from liability (whether at common law or otherwise).

IN ORDER TO RECLAIM COSTS

In order to reclaim the costs in accordance with **S47**:

1. Need to issue and serve a notice under **S47(6)** confirming:

The issue of the CPN, its requirements and that it should have been complied with by **DATE**;

As a result of the failure to comply with the Notice the Council have executed works comprising **CONFIRM THE WORKS** (provided full details) (“the works”);

The works were in the sum of £ **enter figure**. If possible, give a breakdown of the total figure or at least have paperwork available to evidence the cost if required;

That the Council require payment of the costs of executing the works by **confirm a reasonable date within which you require payment to be made**;

That an appeal may be made to the Magistrates Court within 21 days from the date of the Notice on the ground that the amount claimed is excessive.

2. If the costs are not paid in accordance with the S47 Notice I advise that an invoice will be raised as a preliminary step to the commencement of civil proceedings for the recovery of the debt. It is at this stage that a letter before action is issued by Legal.

Kevin Roberts
17 May 2022

Appendix C – Indemnity Form



Graffiti Removal Indemnity Form

I/We.....as owner(s) of

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.....
.....

Request the City of Wolverhampton Council to remove free of charge racist/offensive graffiti defacing my property. I/We agree that the Council will use the Trafalgar Twin Axle SCMSC Grime Buster for removal of graffiti from the above-mentioned property.

As part of the graffiti Removal Process chemicals may be used and this can lead to a chemical reaction with painted surfaces.

On completion of the cleaning process 'ghosting' may occur and the base surface will/may be left with a lighter colour on the area where the graffiti is removed.

City of Wolverhampton Council undertakes all reasonable precaution to prevent any loss of and/or damage to property caused by the removal of this graffiti. By continuing to request this service, you acknowledge that the Council cannot accept any legal responsibility for any loss or damage caused and will indemnify the Council against any claim by any other person or persons arising from the removal of this graffiti carried out by Council officers.

Name:.....




Address:.....

Signature:.....

Date:.....

Please complete and return this form to the Officer by email or posting it to the address shown on the attached letter

City of Wolverhampton Council
Public Protection, Civic Centre,
St Peter's Square, WV1 1SH

-  wolverhampton.gov.uk
-  @WolvesCouncil
-  WolverhamptonToday