

REMOVAL OF GRAFFITI PROTOCOL (v3)

1. CHARNWOOD BOROUGH COUNCIL PROPERTY & ASSETS

Graffiti Type – OFFENSIVE ¹

CBC **will clean** off this type of graffiti off all Charnwood Borough Council property & assets within 24 hours. The ³cost for this service will be borne in full by CBC.

Graffiti Type – DETRIMENTAL ²

CBC **will clean** off this type of graffiti off all Charnwood Borough Council property & assets within 7 days. The ³cost for this service will be borne in full by Charnwood Borough Council.

2. CHARNWOOD NEIGHBOURHOOD HOUSING (CNH) PROPERTY & ASSETS

Graffiti Type – OFFENSIVE

CBC **will clean** off this type of graffiti off all Charnwood Neighbourhood Housing property & assets within 24 hours. The cost for this service will be borne in full by Charnwood Neighbourhood Housing.

Graffiti Type – DETRIMENTAL

CBC **will clean** off this type of graffiti off all Charnwood Neighbourhood Housing property & assets within 7 days. The cost for this service will be borne in full by Charnwood Neighbourhood Housing.

3. COUNTY COUNCIL PROPERTY & ASSETS

Graffiti Type – OFFENSIVE

CBC will **not** clean this type of graffiti off County Council property / assets. CBC will:-

- a) Request the graffiti is cleaned off within 24 hours and or,
- b) Liaise with the County Council to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- c) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost within a further 24 hours of the initial request and to claims costs in default.

Graffiti Type – DETRIMENTAL

CBC will **not** clean this type of graffiti off County Council property / assets. CBC will:-

- a) Request the graffiti is cleaned off within 7 days and or
- b) Liaise with the County Council to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- c) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost within a further 24 hours of the end of the 7 day period and to claims costs in default.

4. DOMESTIC / PRIVATE (including SHOPS etc) PROPERTY & ASSETS

Graffiti Type – OFFENSIVE

CBC will **clean** off this type of graffiti off all Domestic, Private Property & Assets (including shops etc) within 24 hours of receiving written permission from the owner or representative.

Graffiti Type – DETRIMENTAL

CBC will **clean** off this type of graffiti off all Domestic, Private Property & Assets (including shops etc) property / assets within 7 days of receiving written permission from the owner or representative. The cost for this service will be borne in full by CBC.

5. COMMERCIAL PROPERTY⁴ (Street Cabinets etc) AND ASSETS

Graffiti Type – OFFENSIVE

CBC will **not** initially clean off this type of graffiti off any commercial property / assets. CBC will:-

- a) Request the graffiti is cleaned off within 24 hours and or,
- b) Liaise with the property owner / representative to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- c) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost and subject to receiving written permission from the Commercial property owner / representative, will clean off within 24 hours of receiving permission, or, if it is appropriate, and or ⁵permissible, take enforcement action, through the issue of a Defacement Notice

Graffiti Type – DETRIMENTAL

CBC will **not** initially clean off this type of graffiti off any commercial property / assets. CBC will:-

- a) Request the graffiti is cleaned off within 7 days and or
- b) Liaise with the property owner / representative to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- c) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost and subject to receiving written permission from the Commercial property owner / representative, will clean off within 24 hours of receiving permission, or, if it is appropriate, and or ⁵permissible, take enforcement action, through the issue of a Defacement Notice

6. EDUCATIONAL INSTITUTIONS⁶

Graffiti Type – OFFENSIVE

CBC will **not** initially clean off this type of graffiti off any Educational Institutions property / assets. CBC will:-

- a) Request the graffiti is cleaned off within 24 hours and or,

- b) Liaise with the property owner / representative to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- c) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost and subject to receiving written permission from the Commercial property owner / representative, will clean off within 24 hours of receiving permission or, if it is appropriate, and or ⁵permissible, take enforcement action, through the issue of a Defacement Notice

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7. **STATUTORY UNDERTAKERS ⁷ (persons enacted to carry on British Waterways, Airports, or Highways)**

Graffiti Type – OFFENSIVE

CBC will **not** initially clean off this type of graffiti off any commercial property / assets. CBC will:-

- d) Request the graffiti is cleaned off within 24 hours and or,
- e) Liaise with the property owner / representative to ensure the Graffiti is cleaned off in accordance with their maintenance programmes,
- f) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost within a further 24 hours of achieving written permission from the Commercial property owner / representative, or, if it is appropriate, and or ⁵permissible, take enforcement action, through the issue of a Defacement Notice

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- f) If not cleaned off CBC officers will decide if it is in the public interest to clean off at CBC cost within a further 24 hours of achieving written permission from the Commercial property owner / representative, or, if it is appropriate, and or ⁵permissible, take enforcement action, through the issue of a Defacement Notice

8. **NATIONAL Health Service and NHS organisations**

These institutions are not covered by legislation accordingly it has been agreed 'In Principle' to apply the same processes applied to Statutory Undertakers

ENFORCEMENT ACTION –DEFAACEMENT NOTICE

General Conditions

To qualify for removal under the ACT the graffiti must be detrimental to the amenity of an area or offensive and Local Authorities are required to take a proportional view of whether an instance of graffiti is detrimental.

There is no general power for local authorities to require the occupiers or owners of private property to remove graffiti. The TCPA 1990 section 215 has a range of powers that require a property owner / occupier of land to maintain it properly.

The use of defacement notices should be a last resort. Working in partnership with owners and occupiers is the preferred option. It should be remembered that property owners and occupiers are the victims too.

Where it is permissible to issue a Defacement Notice it should only be issued where it can be demonstrated that reasonable attempts to contact the owner have been made and removal achieved through voluntary partnership.

However failure by a company to respond to such arrangements may result in the Local Authority proceed to issue Notices if necessary.

It should be noted that Notices can only be issued for certain surfaces defined by legislation

Issuing Process

- 1. Allow 'reasonable notice' for the company to remove the graffiti*
- 2. Issue an initial statutory letter giving 14 days to clean off the graffiti*
- 3. If not cleaned a second statutory letter giving a further 7 days to clean off the graffiti will be issued.*
- 4. If after 7 days the Graffiti has still not be cleaned off a statutory defacement removal notice giving 28days will be issued*
- 5. If after 28 days the graffiti has not be cleaned off CBC will clean off the graffiti in default and recharge to the commercial property / assets owner.*

DEFINITIONS

The following definitions are extracts from legislation and should be read in conjunction with the relevant ACT

1 'OFFENSIVE' applies where graffiti is racially offensive (and hostile to a religious group), sexually offensive, homophobic, depicts a sexual or violent act or is defamatory

2 'DETRIMENTAL' Graffiti can be detrimental to the amenity of an area, for example simple tagging could be 'detrimental'. Local authorities are advised by DERA guidance to take a proportional view as to whether a particular area of graffiti is 'detrimental'

3 CBC Cost to be recharged to the relevant cost centre

4 Commercial properties / assets are defined as any National or 'Financially Capable' Company etc who would be expected to have the financial means to remove any graffiti on their property or asset. E.g Virgin Media street cabinets etc-, Gas / Electric companies etc.

5 Defra guidance states that "the use of defacement notices should be a last resort. Working in partnership with owners and occupiers is the preferred option

6 'Educational Institutions' are :-

- i) Any University*
- ii) The open University*
- iii) Any Institution that provides higher or further education*
- iv) Institutes funded by polytechnics or colleges*
- v) Any city technology or city college*
- vi) Any County School, voluntary school or maintained special school*
- vii) Any grant maintain school*

7 'STATUTORY UNDERTAKERS' are:-

- i) Any person authorised by any by any enactment to carry on any railway, light railway, tramway or road transport undertaking*
- ii) Any person authorised by any by any enactment to carry on any canal, inland navigation, dock, harbour or pier undertaking*
- iii) iii) Any relevant airport operator (within the meaning of Part V of the Airports Act 1986)*

8 'Relevant surfaces' are:-

Relevant surface

- i) **the surface of any street or of any building, structure, apparatus, plant or other object in or on any street (has to be Public Land)** This includes property like cable boxes, telephone kiosks, bus stops, and shelters. A privately owned building such as a shop will not normally be covered as the land that it is built on is adjacent to the street, it will*

not be 'in or on the street' Neither will parks open spaces and garden or other similar areas off the street be covered

- ii) ***the surface of any land owned, occupied or controlled by a statutory undertaker or of any building, structure, apparatus, plant or other object tin or on any such land*** (or if the surface is to be visible from public land or the surface is other wise visible to members of the public using the services or facilities of the statutory undertaker or educational institution in question or any other Statutory undertaker or educational institution)
- iii) ***the surface of any land owned by, occupied or controlled by an education institution (including its governing body) or of any building, structure, apparatus, plant or other object tin or on any such land*** (or i) if the surface is visible from public land, or, ii) the surface is other wise visible to members of the public using the services or facilities of the statutory undertaker or educational institution in question or any other Statutory undertaker or educational institution)

9 'Public Land'

Means land to which the public are entitles to permitted to have access with or without payment (including any street to which the public are so entitled or permitted)

10 'Street'

Means the whole or any part of any of the following, irrespective of whether it is a thoroughfare-

- i) *any highway, road, lane, footway, alley or passage*
- ii) *any square or court*
- iii) *any land laid out as a way whether it is for the time being formed as a way or not*

Where a street passes over a bridge or through a tunnel, references in this part to the street include the bridge or tunnel