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| <b>Subject:</b>          | <b>Graffiti Reduction Strategy – outcomes of consultation</b> |   |                          |
| <b>Date of Meeting:</b>  | <b>29 September 2020</b>                                      |   |                          |
| <b>Report of:</b>        | <b>Executive Director, Economy, Environment &amp; Culture</b> |   |                          |
| <b>Contact Officer:</b>  | <b>Name:</b>  | <b>Saoirse Roche</b>                      | <b>Tel: 01273 294739</b> |
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| <b>Ward(s) affected:</b> | <b>All</b>  |   |                          |

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 In recognition of the scale of graffiti within Brighton & Hove, the Environment, Transport & Sustainability Committee approved a Graffiti Reduction Strategy in November 2018.
- 1.2 To support delivery of the Strategy, it was agreed that a public consultation would take place with businesses, Statutory Undertakers<sup>1</sup> and private property owners in relation to a new enforcement process requiring property owners to remove graffiti within an agreed timeframe. Committee also agreed for officers to explore the feasibility of creating a chargeable graffiti removal service to owners of private and commercial buildings. It was agreed both would be brought back to Committee for approval on how to proceed.
- 1.3 This report details the outcomes of the consultation, making recommendations based on the results.

**2. RECOMMENDATIONS:**

That the Committee:

- 2.1 Note the outcomes of the consultation at Appendix 1.
- 2.2 Delegate authority to the Executive Director Economy, Environment & Culture to use Community Protection Warnings and Community Protection Notices in relation to graffiti removal from Statutory Undertakers' property within Brighton & Hove as detailed at Appendix 2.
- 2.3 Delegate authority to the Executive Director Economy, Environment & Culture to use Community Protection Warnings and Community Protection Notices in relation to graffiti removal from large businesses (250 employees or more) within Brighton & Hove as detailed at Appendix 3.

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<sup>1</sup> Statutory Undertaker is a legal term used to describe organisations or agencies who have legal rights and obligations to carry out development and infrastructure work. Typically, they are utilities and telecoms companies: those who deal with water, gas, electricity, railways etc.

- 2.4 Delegate authority to the Executive Director Economy, Environment & Culture to use Community Protection Warnings and Community Protection Notices in relation to graffiti removal from small to medium sized enterprises (less than 250 employees) within Brighton & Hove as detailed at Appendix 4.
- 2.5 Agree not to introduce a graffiti enforcement approach for homeowners.
- 2.6 Approves the creation of a chargeable graffiti removal service, funded through Service Level Agreements.
- 2.7 Delegate authority to the Executive Director Economy, Environment & Culture (following consultation with Acting Chief Finance Officer) to revise the chargeable graffiti removal service fee in response to the prevailing market prices for the services provided at least annually.

### **3. CONTEXT / BACKGROUND INFORMATION**

- 3.1 In recognition of the scale of graffiti within Brighton & Hove, the Environment, Transport & Sustainability Committee approved a Graffiti Reduction Strategy in November 2018. The Strategy focuses on four workstreams: Prevention, Enforcement, Removal and Monitoring & Review.
- 3.2 The action plan to deliver the Strategy was shared with Environment, Transport & Sustainability Committee in June 2019. Further updates on actions taken to deliver the Strategy were provided to Environment, Transport & Sustainability Committee in October 2019 and January 2020.

#### Current approach to graffiti removal and enforcement

- 3.3 Cityclean is responsible for removing all graffiti on council property as well as offensive graffiti from private property. Currently, two full time graffiti removal operatives provide this service. There is no capacity to extend this to non-offensive graffiti on private property and introducing such a service would be at a substantial cost to the public purse. A consequence of this is a large amount of graffiti on private property across the city.
- 3.4 The Environmental Enforcement Team issue Fixed Penalty Notices to graffiti perpetrators when sufficient evidence is available. At present, Brighton & Hove City Council has no permissions or procedures for enforcing the removal of graffiti from private property.

#### Community Protection Notices

- 3.5 The Clean Neighbourhoods and Environmental Act 2005, was superseded by the Anti-Social Behaviour, Crime and Policing Act in 2014, replacing Graffiti Removal Notices with Community Protection Notices. A Community Protection Notice can be issued to an individual aged 16 or over, or a body, 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

3.6 The results of the consultation show that:

- 72.9% of respondents strongly agreed or tended to agree that graffiti is a problem in their local area
- 85.2% of respondents strongly agreed or tended to agree that graffiti is a problem in Brighton & Hove
- 82.3% of respondents felt graffiti has a negative impact on people's perception of an area, affecting the amenity of areas within Brighton & Hove

3.7 Based on this feedback, Community Protection Warnings and Community Protection Notices are an appropriate enforcement approach to address the issue of graffiti on private property. Appendices 2 to 4 explain how this will work in practice, if approved. The work will be absorbed into the duties of the existing Environmental Enforcement Team and kept under review.

#### Outcomes from consultation

3.8 A public consultation on graffiti enforcement and removal took place between 14 October and 14 December 2019. Different approaches to enforcement against Statutory Undertakers, large businesses, small to medium sized enterprises and homeowners were proposed, alongside questions relating to the introduction of a chargeable graffiti removal services.

3.9 A total of 1028 responses were received, one of the highest responses in recent years. Appendix 1 contains all the feedback. Respondents were able to provide free text for several questions; this has been analysed and the common themes and feedback are contained within Appendix 1.

3.10 Overall:

- 44.6% of respondents strongly agreed or tended to agree that the council should take enforcement action against property owners that fail to remove graffiti from their property
- 45.2 % strongly disagreed or tended to disagree that enforcement action should be taken
- 8.4% neither agreed or disagreed

3.11 While more respondents disagreed with the introduction of enforcement action overall, the subsequent questions and responses provides further insight into this, which is reflected in the recommendations.

3.12 Statutory Undertakers:

- 67.5% of respondents strongly agreed or tended to agree with the proposed enforcement approach for Statutory Undertakers
- Based on the results of the consultation, it is proposed that the enforcement of graffiti removal for Statutory Undertakers is introduced as per Appendix 2

3.13 Large businesses:

- 66.6% of respondents strongly agreed or tended to agree with the proposed enforcement approach to large businesses (more than 250 employees)
- Based on the results of the consultation, it is proposed that the enforcement of graffiti removal for large businesses is introduced as per Appendix 3

### 3.14 Small to medium sized enterprises:

- 51.6% of respondents strongly agreed or tended to agree with the proposed enforcement approach for small to medium sized enterprises (less than 250 employees)
- For those that were responding as a local business, more respondents strongly disagreed or tended to disagree with the introduction of enforcement against small and medium sized enterprises, than those that supported the proposal. The responses from other stakeholders, however, supported the introduction of an enforcement approach. The purpose of the enforcement approach is to protect the amenity of an area. It's clear from the other stakeholders' responses that enforcement is required, alongside the other measures being delivered within the Strategy
- Based on the results of the consultation, it is proposed that the enforcement of graffiti removal for small to medium sized enterprises is introduced as per Appendix 4

### 3.15 Homeowners:

- 37.7% of respondents strongly agreed or tended to agree with the proposed enforcement approach to homeowners
- Based on the results of the consultation, it is proposed that the enforcement of graffiti removal for homeowners is not introduced
- The majority of different stakeholders tended to disagree with the proposed enforcement approach to homeowners, not just homeowners themselves
- Instead, alternative options will be pursued to encourage removal
- It must be noted that it is the landlord's responsibility to clear graffiti from their property, not the tenants

### 3.16 Chargeable graffiti removal service:

- 67.3% of respondents strongly agreed or tended to agree with the introduction of a chargeable graffiti removal service
- 69.6% of respondents strongly or tended to agree with the proposed charges of the chargeable graffiti removal service differing for Statutory Undertakers, large businesses, small and medium sized enterprises and homeowners
- Based on the results of the consultation, it is proposed that a chargeable graffiti removal service is introduced, with differing charges for the different types of property owners
- The cost of service will be quoted on a case by case basis, considering: the coverage of the graffiti vandalism, the equipment required for removal, the time needed etc. to provide a price for each job. There is scope within this to ensure the fee will be fair and competitive.

## Implementation

- 3.17 A phased approach will be used to implement the new enforcement arrangements, subject to the appropriate approvals from Committee. This will be:

- The creation of Service Level Agreements with Statutory Undertakers for the council to remove reported graffiti from their property within a given time frame<sup>2</sup>
  - The introduction of Statutory Undertaker enforcement as per Appendix 2
  - The creation of Service Level Agreements with Large Businesses for the council to remove reported graffiti from their property within a given time frame
  - The introduction of large business enforcement as per Appendix 3
  - The introduction of small and medium sized enterprise enforcement as per Appendix 4
- 3.18 Covid-19 has had a significant impact on businesses across Brighton & Hove and the council wants to do all it can to support them as they reopen across the city. However, the extent of graffiti on private properties is causing a great deal of concern. Introducing enforcement measures against private property owners may be seen negatively given the difficulties businesses are facing at present. However, the response to the consultation demonstrates that stakeholders do want action to be taken against those not clearing graffiti in a timely manner. The proposed model is supportive, giving property owners time and support to remove graffiti. In addition, the approach will be phased in order to give property owners the time needed to get things in order before enforcement action is taken. It is anticipated that implementation will take 12 to 18 months. Alongside this will be the creation of the chargeable graffiti removal service, supportive measures for homeowners and delivery of other elements of the Graffiti Reduction Strategy.
- 3.19 Where a property owner can demonstrate removal arrangements have been arranged, enforcement action will be paused, pending the removal. Should the removal not take place as planned, enforcement processes will proceed.
- 3.20 The council will increase its efforts to remove graffiti from its own property as it is recognised that more work can be done. However, it should be noted that:
- Operatives are only able to use a two-step ladder, so removing graffiti from height is complex
  - Some surfaces will require specialist skills or equipment or a contractor
  - High footfall areas can only be cleaned very early in the morning
  - Some graffiti removal can only be completed when the weather is dry

#### Delivery of Graffiti Reduction Strategy

- 3.21 Progress on delivering activities to deliver the Graffiti Reduction Strategy have been affected by Cityclean's response to the Covid-19 pandemic. Graffiti Operatives were deployed to other street cleansing tasks as necessary and Project Officers were deployed to support the frontline delivery of services. As a result, much project work had to be deprioritised.
- 3.22 Activities delivered during this time include:
- Refreshing the action plan, including adding in new activities
  - Increasing the resources to deal with graffiti including a new jet washer and a new van

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<sup>2</sup> If there is insufficient demand for SLAs and the income generated does not make the graffiti removal service a viable option, then the model proposed in this report will have to be revisited

- Increasing the number of Environmental Enforcement Officers to patrol the city
  - The creation of a graffiti hotline
  - Resuming the zonal method of graffiti removal
  - Identifying further options for anti-graffiti coating
  - Identifying a graffiti removal spray for volunteers to use to replace costly and environmentally damaging graffiti wipes
  - Expanding the Community Clean Up supplies available to residents
  - Working with graffiti artists to improve repeatedly tagged areas
  - Scheduling IT&D development time for creating the graffiti / tagging database
  - Development of anti -graffiti signage to compliment the use of mobile CCTV which has recently been procured
- 3.23 The Environmental Enforcement Team have been adapting their graffiti patrols based on intelligence on graffiti vandalism activities from the public and local action groups. Our Environmental Enforcement Officers liaise closely with the dedicated graffiti Police Officer on a regular basis sharing intelligence to maximise our chances in catching those responsible.
- 3.24 Sussex Police have increased the dedicated resources to catch graffiti vandals, by allocating a prevention officer to oversee investigations and prosecutions. In recent months, there has been two successful prosecutions. One individual has been electronically tagged for eight months, is required to participate in 20 hours of rehabilitation activities, been banned from carrying any form of graffiti materials for two years and pay £1200 in damages. Another vandal was ordered to pay £1,940 in compensation and £85 court costs.
- 3.25 The Environmental Enforcement Team continue to work with Sussex Police to catch offenders, including increased graffiti patrols. A joint campaign with Sussex Police is being planned to deter graffiti and highlight the issues. Cityclean is also looking to arrange targeted community clean up days to residents and businesses can get involved in cleaning up their local areas.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The council can continue with its current approach to graffiti removal and enforcement only, but this will not deliver the aims of the Graffiti Reduction Strategy.
- 4.2 The public consultation provided an opportunity for residents to comment on the proposals.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The feedback from the consultation is detailed in the main body of the report and Appendix 1.

#### **6. CONCLUSION**

- 6.1 Members agreed the Graffiti Reduction Strategy in November 2018. This included a commitment to complete a public consultation on a new enforcement

approach requiring property owners to remove graffiti within an agreed timeframe, plus the introduction of a chargeable graffiti removal service. This report presents the outcomes of the consultation.

- 6.2 To continue the delivery of the Graffiti Reduction Strategy, Members are asked to approve the recommendations in section 2 to further prevent, enforce and remove graffiti and/or tagging across Brighton & Hove.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The graffiti removal service has a budget of £0.122m for 2020/21 (the original budget of £0.082m has potentially been increased by £0.040m). The additional spending is dependent on the generation of an equal value of additional enforcement income (from increasing the Environmental Protection Fines to the allowable maximum from 1 April 2020). Existing income generation has been negatively impacted by the Covid19 lockdown.
- 7.2 The proposal (as set out in paragraph 3.17) is a phased approach so that, for example, Service Level Agreements are secured prior to expanding the service. This should limit the risk that the additional costs incurred by expanding the service will exceed the additional income from charging for the service. As set out in the report, if there is insufficient demand for SLAs and the income generated does not make the graffiti removal service a viable option, then the model proposed in this report will have to be revisited. The financial position will also be reviewed as part of monthly budget monitoring and annual budget setting.

*Finance Officer Consulted: Jess Laing*

*Date: 11/09/2020*

### Legal Implications:

- 7.3 The power to issue Community Protection Notices is found in section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014, referred to in paragraph 3.5 of this report. That section provides that a Community Protection Notice can only be issued if the individual or body concerned has been given written warning that a notice will be served unless the relevant conduct ceases, and that the conduct has continued.
- 7.4 The Council's power to charge for discretionary services is found in s.93 of the Local Government Act 2003. The power is subject to a duty that, taking one financial year with another, the income from charges does not exceed the costs of provision.

*Lawyer Consulted: Hilary Woodward*

*Date: 28/08/2020*

### Equalities Implications:

- 7.5 It is recognised that some buildings are more likely to be subject to graffiti vandalism than others. The different approaches to graffiti enforcement have been proposed to take this into account.

- 7.6 A scaled pricing system for the chargeable graffiti removal system has been proposed to make the service as accessible as possible.

#### Sustainability Implications

- 7.7 The vehicle to be purchased for chargeable graffiti removal service has a 200-bar pressure washer, which should decrease the operating time of the engine, cutting vehicle emissions. This will be purchased in line with the recently approved Fleet Strategy and will have a minimum life of four to five years before it will be assessed for replacement.

#### Crime & Disorder Implications:

- 7.8 Graffiti vandalism is a crime. Deploying measures to prevent, enforce and remove graffiti and/or tagging will reduce the anti-social behaviour associated with this activity. A graffiti prevention officer has been appointed by Sussex Police to support the prevention of graffiti vandalism and to ensure consistency between investigations. Joint patrols and communications will be actioned to deliver the Graffiti Reduction Strategy.

#### Corporate / Citywide Implications:

- 7.9 The recommendations in this report support the Corporate Plan commitment to tackle graffiti and tagging.

## **SUPPORTING DOCUMENTATION**

### **Appendices**

1. Responses to the public consultation
2. Proposed approach for Statutory Undertakers
3. Proposed approach for large businesses
4. Proposed approach for small to medium sized enterprises

### **Background Documents**

1. [Graffiti Reduction Strategy Report](#) to Environment, Transport & Sustainability Committee on 27 November 2018
2. [Graffiti Reduction Strategy Update Report](#) to Environment, Transport & Sustainability Committee on 25 June 2019
3. [City Environment Modernisation Update Report](#) to Environment, Transport & Sustainability Committee on 8 October 2019
4. [City Environment Modernisation Update Report](#) to Environment, Transport & Sustainability Committee on 21 January 2020