

Appendix 1 – Graffiti and Street Art Policy

London Borough of Tower Hamlets Graffiti and Street Art Policy

Tower Hamlets Council recognises the adverse impact graffiti and fly-posting can have on public and visitor perception.

The Council is committed to tackling unwanted, illegal and antisocial graffiti, whilst taking a balanced view on street art. This policy supports priorities set out by the Strategic Plan 2018-2021 to deliver “a borough that our residents are proud of and love to live in”. The outcomes we aim to achieve under this priority are:

- People live in a borough that is clean and green.
- People live in good quality affordable homes and well-designed neighbourhoods.
- People feel safer in their neighbourhoods and anti-social behaviour is tackled.
- People feel they are part of a cohesive and vibrant community.

The policy sets out clear principles for addressing graffiti and street art. Where either of these is unwanted and appears without consent, this will be viewed as an interference with the property owner’s rights and as such the person has committed a criminal offence under the Criminal Act 1971. The Council also has a power under section 43 of the Anti-social Behaviour Act 2003 as amended by the Clean Air Neighbourhood & environment Act 2005 to deal with graffiti offences and to enforce removal of graffiti from private property where required.

The Department of Food and Rural Affairs (DEFRA) defines graffiti as “any informal or illegal marks, drawings or paintings that have been deliberately made by a person or persons on any physical element comprising the outdoor environment, with a view to communicating some message or symbol etc. to others”.

Graffiti, street art and fly-posting can have a detrimental impact on the local environment and people’s quality of life when it is offensive. According to DEFRA guidance, offensive graffiti applies where it is racially offensive, hostile to a religious or belief group, sexually offensive, homophobic, depicts a sexual or violent act or is defamatory.

Graffiti Removal

The Council does not consent to any painting, writing, soiling, marking or other defacement on its property including footways without its prior express permission being obtained. Where graffiti is found on council owned properties or street furniture the graffiti will be removed.

In addition the Anti-Social Behaviour Act 2003 confers power on the Council to secure the removal of graffiti from private property. Enforcement action can be taken, even where the owner does not object to it remaining on their property.

In these circumstances the council reserves the right to take formal action against the owner to secure removal and if the owner does nothing, then the council may enter the land, clear or otherwise remedy the graffiti and recover the costs from the owner.

Subject to funding the council may provide a free first time graffiti removal service to owners/occupiers of properties. This removal work takes place in agreement with the owner and in some more difficult cases the owner of the property may be required to contribute to the cost of removal and or the cost of anti-graffiti coatings.

Where graffiti is visible from the public areas, is considered accessible and deemed to be offensive removal will take place within 24 hours where possible.

Preventing Graffiti

The Council will continue to work with residents and groups in creating alternative diversions to graffiti problems (e.g. repeated tagging), examples of diversions include initiatives such as community clean ups and graffiti prevention schemes. In addition the Council recognises the importance of engaging young people through an on-going programme of education and diversionary techniques, including through schools and organised youth activities in areas where graffiti is identified as a problem.

They will also work in partnership with a range of other agencies and organisations to explore preventative measures and ideas.

Street Art

The Council recognises that public opinion on what constitutes graffiti has changed, that some "Graffiti" is now considered to be "Street art" and that some members of the community now consider that "Street Art" makes a positive contribution to the urban environment. Where some property owners commission street artists to decorate their properties enhancing visitor engagement with the public realm, this is viewed by the Council as a positive attraction to the borough.

In recognition of this the Council accepts that properly authorised and appropriate street art may be recognised and supported subject to meeting acceptance criteria within this policy and not being a detriment to local environmental quality.

If a property owner wishes to apply an artwork to their property they must inform the council at the earliest opportunity. Where graffiti has already been applied to a property but the owner of the property considers the graffiti to be street art the property owner must notify the council's that they would like to keep the work.

In both circumstances a decision not to remove the work will be based upon a test of whether the street art or graffiti are considered to be detrimental to the local environment and enjoyment of the location by users.

The list below highlights key considerations:

- Can the Street Art/Graffiti be seen from areas the public are entitled to frequent.
- Is the "Street Art" offensive in its nature, gang related, racially aggravating, insulting and against public interest.
- Are the images considered to be contextually detrimental including but not limited to: Encouraging to illegal graffiti proliferation, inappropriate for the location e.g. Adult content near schools, out of keeping with surrounding area.
- Saturation (Consideration of the number of images already present in the area.
- Complaints
- Other policies likely to be infringed
- Explicit Images
- Intimidating
- Libellous or potentially libellous statements
- In a conservation area
- On a listed building
- Tag's
- Scratching
- On Local Authority property.

This list is not exhaustive and adequate exploration of the detriment question is critical to provide the Council with a clear considered rationale for any decision especially where conflicting opinions between owner/occupier, the council and the community exist.

This is a matter of judgment for the decision taker, acting reasonably and having due regard to national guidance and to this policy.

There is no obligation on the Council to consult in connection with the exercise of its Graffiti removal powers and in most cases it will not be in the public interest for it to do so.

Evaluating graffiti and street art

There may be occasions when it is difficult to make a clear decision whether a piece is street art. In this situation cases will be referred to an evaluation panel made up of council officers.

The evaluation panel will review each case applying the policy criteria in order to reach agreement on whether a piece is removed or allowed to remain in place.

Evaluation by the board will take place when the council receives challenge and complaints from the community and when trained council staff have found it difficult to apply to policy and make a decision.

The council local environmental quality team supports engagement with the artistic Community particularly through a co-ordinating single point of contact.