

**REPORT TO: ENVIRONMENTAL SERVICES AND SUSTAINABILITY COMMITTEE  
16 JANUARY 2006**

**REPORT ON: GRAFFITI REMOVAL - ANTISOCIAL BEHAVIOUR ETC (SCOTLAND) ACT 2004**

**REPORT BY: HEAD OF WASTE MANAGEMENT**

**REPORT NO: 20-2006**

## **1.0 PURPOSE OF REPORT**

1.1 To inform committee of the terms of this legislation, and to seek authority to issue graffiti removal notices under Section 58 to 65 of the Antisocial Behaviour etc. (Scotland) Act 2004.

## **2.0 RECOMMENDATIONS**

2.1 It is recommended that the committee:

2.1.1 Delegates authority to the Head of Waste Management and appropriate nominated officers to issue and withdraw notices under Section 58 to 65 of the Antisocial Behaviour etc. (Scotland) Act 2004.

2.1.2 Authorises nominated officers to approach utility companies, educational institutions and statutory undertakers to inform them of the legislation, and to adopt partnership arrangements to tackle graffiti on their property.

2.1.3 Authorise the removal of graffiti and the pursuit of costs if the recipients of graffiti removal notices fail to comply with the notice within the agreed timescale.

## **3.0 FINANCIAL IMPLICATIONS**

3.1 There are no cost implications for the Council as all charges in relation to graffiti removal notices are recoverable.

## **4.0 DUNDEE 21 IMPLICATIONS**

4.1 Health is protected by creating a safe clean pleasant environment.

## **5.0 EQUAL OPPORTUNITIES**

5.1 None.

## **6.0 MAIN TEXT**

6.1 Graffiti is a problem affecting many urban authorities and is one of the most visible forms of antisocial behaviour in disrespect for the environment. It has been shown to be associated with crime and disorder, it deters business investors, it can be intimidating and unattractive to visitors and can contribute to an environment where crime takes hold and people feel unsafe.

- 6.2 In 2002, a working group was formed to look at the issue of graffiti and to examine different ways of tackling the issue. The group looked at examples of best practice and the outcome was the creation of a range of reactive and proactive measures to tackle the problem, including the establishment of a second Rapid Response Team dedicated to the removal of graffiti from public property.
- 6.3 The Rapid Response Team approach has proven to be successful, but the team has been limited by the refusal of utility companies and statutory undertakers to allow graffiti removal from their property.
- 6.4 Sections 58 to 65 of the Antisocial Behaviour etc. (Scotland) Act 2004 enable a local authority to serve a "graffiti removal notice" on the owners of street furniture, statutory undertakers, and educational establishments whose property is defaced with graffiti. The notice requires the owners to clean up graffiti within 28 days, or such other period as specified in the notice. If they fail to do so, the local authority can remove the graffiti and recover reasonable costs.
- 6.5 It should be noted "educational establishments" are defined within the Environmental Protection Act 1990, Section 93(3), and would not include schools owned by Dundee City Council.
- 6.6 The Act does not include the provision of serving notice on shopkeepers and private homeowners. If graffiti is present on such property, the owners or occupiers would be approached and given advice on possible ways to remove the graffiti. If appropriate, the Waste Management Department would offer to remove the graffiti and the owner or occupier charged for any work undertaken.
- 6.7 It is recognised that graffiti should be removed as soon as possible through good partnership working and a graffiti removal notice should be issued as a last resort. It would be the intention to approach the bodies likely to be affected with a view to adopting partnership strategies to tackle graffiti on their property. If a company persistently fails to respond to this approach, the local authority may proceed to issue notices as necessary.
- 6.8 The notice should require removal of the graffiti, which may involve repainting the whole surface or just the area covered by the graffiti.
- 6.9 Where the same piece of property is subjected to repeat attacks, the local authority will work with the owners to agree alternatives to repeat notices. This could include additional enforcement action to catch the perpetrators or the use of anti graffiti paint.
- 6.10 The powers of the local authority following non-compliance with a notice are restricted to "remove, clear or otherwise remedy the defacement". No other interference with the property is permitted. It is hoped that in most cases the recipients of the notices will remove graffiti themselves and that no further action will be necessary. In any case where this does not happen, the Waste Management Department may carry out the work, and pursue recovery of costs.
- 6.11 It should be noted there are health and safety and liability issues associated with electrical equipment contained inside utility boxes, post boxes etc. and the graffiti removal must follow agreed processes and guidelines.

## **7.0 CONSULTATION**

- 7.1 The Chief Executive  
Depute Chief Executive (Finance)  
Depute Chief Executive (Support Services)

**8.0 BACKGROUND PAPERS**

8.1 None.

Jim Laing Head of Waste Management

16 December 2005