

Local Services

Graffiti & Fly-Poster Removal Policy

Introduction

Northumberland County Council is committed to maintaining a clean and safe environment for the benefit of everyone in the county. This commitment recognises our responsibility to keep the streets and local environment clear of litter, obstructions and other local environmental quality issues. The Clean Neighbourhoods & Environment Act 2005 highlights the link between quality of life and the quality of the external environment and states that residents want cleaner streets, less litter, less graffiti and more attractive parks and open spaces. The presence of dumped waste, litter, graffiti and other environmental crime also contributes to people's fear of crime. A cleaner and safer environment for Northumberland will, therefore help improve the quality of life for all those who live, work in and visit the Northumberland county.

The local authority is responsible for removing graffiti/fly-posters from public buildings, monuments or street furniture such as benches. Other items such as telephone boxes, non-council maintained bus shelters and electricity boxes are the responsibility of the company that has placed them there, for example British Telecom, Adshel or utility companies.

Local authorities are responsible for cleaning up graffiti/fly-posters as quickly as possible. Some councils have rapid response units that will send someone out to clean up graffiti/fly-posters as soon as they are reported. Protective coatings can be used in locations that are vulnerable to graffiti. Most authorities with a graffiti problem adopt a combination of deterrent, protective and removal methods. Due to the fact that neither deterrent nor protective materials or devices will entirely defeat determined graffitiists, the main remedy is prompt removal.

SERVICE LEVEL AGREEMENT

Local Services operates a graffiti/fly-poster removal service covering Northumberland County Council's streets and public spaces. Local Services would be interested in entering into partnership arrangements to offer a cost effective and robust approach to removing graffiti and fly posters.

PURPOSE OF AGREEMENT

To create the most effective way of tackling the Anti Social Act of Graffiti/fly-posters alongside Partnership Agencies.

PARTIES TO THE AGREEMENT

This agreement is between Northumberland County Council, Local Services and Partner Agencies.

LINES OF COMMUNICATION

All correspondence related to this agreement are to be made in writing either via email or letter. Any verbal communication must be confirmed in writing.

SERVICES TO BE PROVIDED

REMOVAL

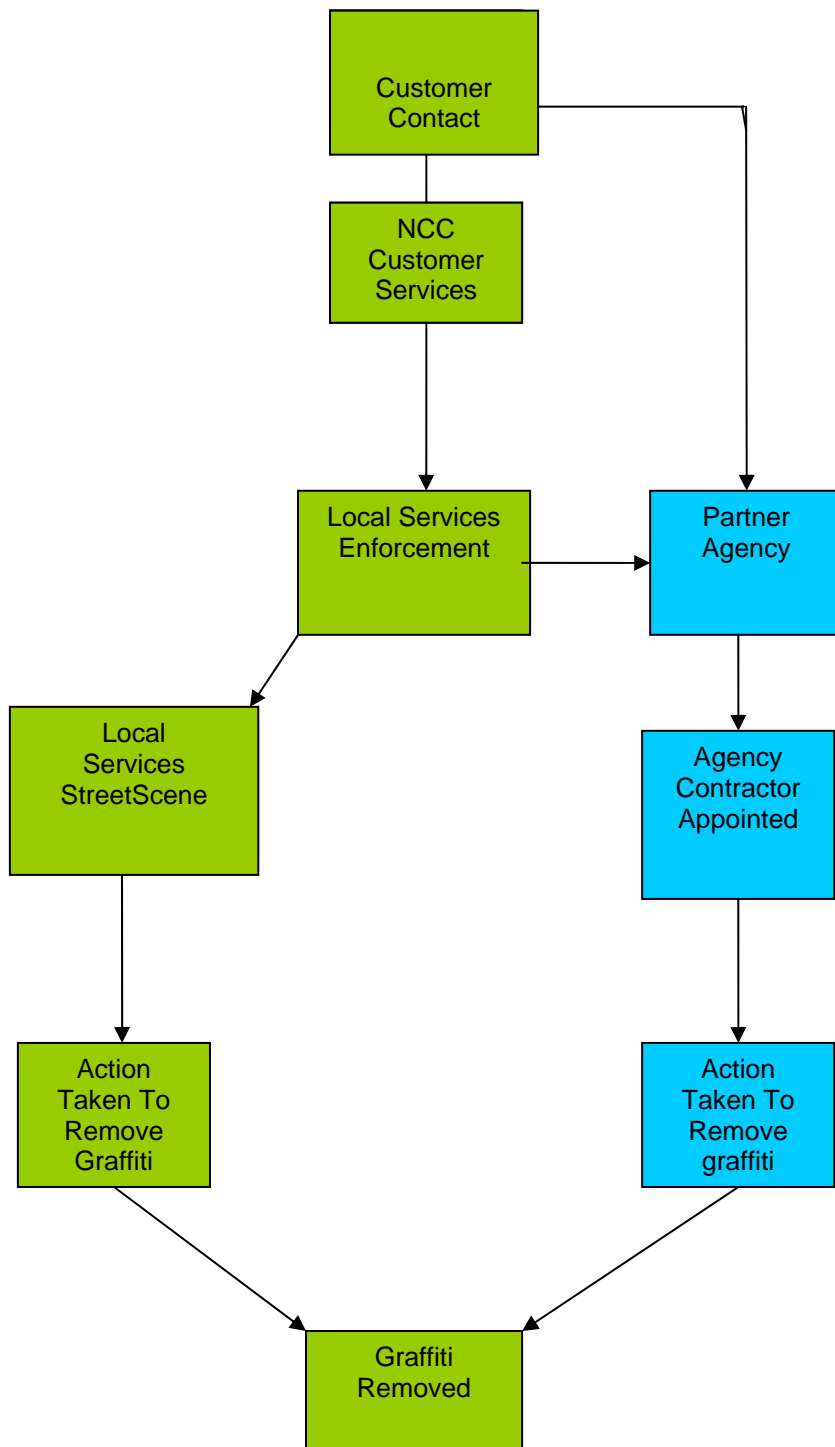
The graffiti would be reported to Northumberland County Council Customer Services via telephone, Northumberland County Council Web page www.northumberland.gov.uk or email ask@northumberland.gov.uk from either a member of Public or Council Officer. Customer Services would then log the call with Local Services who would then dispatch an Officer to assess the graffiti and ascertain land or property ownership, pass information on to relevant partner (below), process a disclaimer form (for private property)(copy attached) or dispatch a team to remove the graffiti considering whether fully removing the graffiti will cause damage to the original surface underneath. If possible the graffiti will be completely removed; otherwise we will paint over the graffiti with a finish that matches the surrounding surface with a type of paint appropriate for the location.

PARTNERS

Reporting graffiti to non-council property (e.g. non-Council maintained bus shelters, Railway stations, Bus Stations, BT boxes etc) contact the following organisations directly:

Organisation	Contact number
British Telecom	0800 800 151
Network rail (tracks/stations/bridges):	08457 114 141
Northern Rail	0845 000 0125
TRANSCO	01753 803 461
Royal Mail	0845 774 0740
Adshel	0191 487 5570
NTL & Telewest	08000 522 000
Northumbria Water	01784 426 424
NEDL	0800 668 877
Berwick Borough Housing	08000 461 451
ISOS Castle Morpeth Housing	0845 117 0020
Homes for Northumberland (Blyth Area)	01670 542 424
Homes for Northumberland (Alnwick Area)	08000 461 431
Bernicia Wansbeck Homes	0844 8003 800
ISOS Milecastle Housing (Tynedale Area)	01434 611 400
Arriva Northumbria	0844 800 4411

SLA Flow chart for Graffiti Removal



HOTSPOTS

An awareness of 'hot-spots', which receive special attention with regards to monitoring. These areas to be targeted alongside youth groups to promote diversified activities to channel the interests and energies of young people (Tagging predominantly 11 to 16 year old males – investigation Committee 2001) into more productive and positive outcomes.

ENFORCEMENT

Enforcement plays a vital role in maintaining a clean and safe environment by providing information and advice to individuals and businesses that spoil the environment who are made accountable for their actions through legislative processes.

Written Warning (copy attached)

Council Officer's have the option to serve the offender with a written warning regarding the offence stating the necessary future conduct. The warning will note that no formal action will be taken, but will stay on file indefinitely and can be used as a factor in any future assessment where a similar offence occurs. This method is mainly aimed at the Under15 year olds.

Simple Caution (copy attached)

A Simple Caution is a non-statutory disposal for adult offenders. It may be used for cases involving first time, low-level offences where a simple caution can meet the public interest. An admission to committing the offence is needed from the offender, which should be recorded by the council officer. In acceptance of this caution the offender will also receive costs incurred by the Council for the enforcement and clearance of graffiti. A Caution forms part of an offender's criminal record and may influence how they are dealt with, should they come to the notice of the Council again. The Caution may also be cited in court in any subsequent court proceedings. Cautions are not covered under the Rehabilitation of Offenders Act 1974 and therefore, never become spent.

Fixed Penalty Notice (FPN) (copy attached)

Authorised Officer's can offer FPN's for certain environmental crime offences. FPN's are used as an alternative to prosecution and the alleged offender being taken to court.

FPN's may be issued when an authorised officer believes that an offence has been committed. The FPN gives the alleged offender an opportunity to avoid prosecution by payment of the penalty. It is essential, therefore, that FPN's are only issued where there is adequate evidence to support a prosecution if a notice is not paid, and that unpaid notices are followed up. The use of FPN's will improve the effectiveness and efficiency of the enforcement process, resulting in the officers being able to focus more detailed attention on more complex and involved cases.

Northumberland County Council sees the issues covered by FPN's under the Environmental Protection Act 1990, Anti Social Behaviour Act 2003 and CNEA 2005 as important to individuals' quality of life and so wants to send out a strong message, through their usage, to those who deface the Northumberland Environment.

The FPN must be paid within 14 days of it being served. If the FPN is not paid a series of reminders will be sent to the offender. If the notice still remains unpaid the case will be considered for prosecution in the Magistrates Court.

RECORDING

Northumberland County Council Enforcement Officers will record graffiti/fly-poster issues on an agreed database giving location, times and dates. This information will be passed on to Northumbria Police Neighbourhood Beat Managers alongside photographic evidence if applicable.

DEFACEMENT NOTICE

Defacement removal notices are notices which local authorities can serve on the owners of street furniture, statutory undertakers such as Network Rail, and educational institutions whose property is defaced with graffiti. These notices oblige the recipients to remove the specified graffiti within 28 days or the local authority can remove it and recover the costs.

TIMING

Once the request has been logged with Customer Services the graffiti/fly-poster must be removed by Local Services within Service Level Timescales.

RELEVANCE

Northumberland County Council corporate strategy to promote partnership and cross departmental working

ACCURACY

Information to be accurate and up to date. Officers to be aware of legislation and procedure changes at a national and local level.

RESPONSE TIME

Northumberland County Council will respond promptly to correspondence pertaining to this Service Level Agreement and aim to reply in writing within 72 hours and return phone calls within one day.

LEVEL OF SERVICE

- Our service standards include the following standards against our targets.
- To remove 100% of racist/abusive graffiti within 24 hours of it being reported
- To remove 99% of other types of graffiti within 7 working days [28 days in the case of a defacement removal notice issued to a private landlord or land owner]. All instructions issued by either party must not be ambiguous and must be clearly understood by either party.
- Where Environmental, technical or departmental terminology is used, this must be fully explained by either party.
- All requests for information must be dealt with promptly and within defined timescales.
- This service will be delivered by the appropriately trained members of staff. Where possible standards will be agreed for all items of work

DEGREE OF CONTRIBUTION AND HELP FROM USER

It shall be the responsibility of Northumberland County Council to obtain all necessary internal approval for the work and any variances.

PERIOD OF AGREEMENT

This agreement will be in place for 12 months from 1st November 2010 until 31st October 2011 resulting in a review of performance and procedures. Following this regular reviews will take place.

ARRANGEMENTS FOR MONITORING, MEASUREMENT AND REVIEW

- Use database as mechanism for monitoring and measure actual performance against the agreed terms
- Agree performance indicators to provide benchmarks
- Performance reviews
- Regular refresher training courses

PROCEDURE FOR CHANGE CONTROL

Variations to this agreement may be made with the written consent of Northumberland County Council and Local Services.



LOCAL SERVICES
Graffiti Removal Request

Name: _____

Address: _____

Tel No: _____

Details of graffiti/fly-poster:

See Reverse...

Disclaimer

I understand that the process of graffiti removal involves the use of high pressure water and chemicals that may result in damage to certain surfaces. I confirm that Northumberland County Council will not be held liable for any loss or damage caused to my property as a result of the process.

Signature: _____ Date: _____

OFFICE USE	
<u>Area to be treated</u>	Cost Code: _____
	Total Cost: _____

ONCE COMPLETED PLEASE RETURN TO:

Northumberland County Council

County Hall

Morpeth

Northumberland

NE61 2EF

Tel: 0845 600 6400

Fax: 01670 511 413

Email: ask@northumberland.gov.uk

Opening Hours:

Mon-Fri: 8.30am - 5pm



Northumberland County Council

Graffiti Removal Description

Please circle which applies:

Private Property

- Building
- Brick Wall
- Driveway
- Fence
- Garage / Door(s)
- House
- Rendered Wall(s)
- Wall(s)
- Paving
- Other: _____

- **Racist**
- **Offensive**

Public Property

- Building
- Bridge
- Curbs
- Car Parks
- Pedestrian Tunnel
- Retaining Wall
- Path Way
- Stop Sign(s)
- Street(s)
- Lamp Post(s)
- Telephone Pole(s)
- Street Signs(s)
- Traffic Control Box
- Traffic Sign(s)
- Tree(s)
- Underpass
- Wall(s)
- Garage / Door(s)
- Other: _____



U15 WRITTEN NOTICE

For the attention of the Parent(s)/Guardian(s) of

.....
On (date) a Northumberland County Council Enforcement
Officer observed the above person at (location)

.....
.....
The Officer observed the following behaviour of the above named person (description)

.....
.....
.....
Local Services work in close partnership, not only within the Council, but also with many
outside agencies to ensure that together we create a safer, cleaner environment in your
neighbourhood.

We anticipate that you will assist in ensuring that the above named person will not repeat
the kind of behaviour described above. This is particularly important as similar conduct
on the part of anyone aged 15 or over, could result in the issue of a fixed penalty notice
(FPN). A record of the above conduct has been kept on the Northumberland County
Council Enforcement Incident Database.

**You can find out more on cleaner environments and anti-social behaviour by
visiting Northumberland County Councils website on: www.northumberland.gov.uk**

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Northumberland
NE61 2EF
Tel: 0845 600 6400
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ask@northumberland.gov.uk
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CAUTION

Offender's Name:

Offender's Address:

Date of Birth:

Date of Offence:

Place of Offence:

Circumstances of Offence:

Declaration

I HEREBY DECLARE that I admit to the offence described above, and agree to accept a caution in this case. I understand that a record will be kept of this caution for three years, and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future. I further understand that this caution may be cited should I subsequently be found guilty in a Court of Law.

Signed: Date:

Signed: Date:

Anti-social Behaviour Act 2003

48 Graffiti removal notices

(1) This section applies where a local authority is satisfied—

- (a) that a relevant surface in an area has been defaced by graffiti, and
- (b) that the defacement is detrimental to the amenity of the area or is offensive.

(2) The authority may serve a notice (a “graffiti removal notice”) upon any person who is responsible for the surface imposing the requirement mentioned in subsection (3).

(3) That requirement is a requirement that the defacement be removed, cleared or otherwise remedied within a period specified in the notice being not less than 28 days beginning with the day on which the notice is served.

(4) If the requirement mentioned in subsection (3) is not complied with, the authority or any person authorised by the authority may remove, clear or otherwise remedy the defacement.

(5) In exercising the power under subsection (4) the authority or any person authorised by the authority may enter any land to the extent reasonably necessary for that purpose.

(6) A graffiti removal notice must explain the effect of subsections (4) and (5) and sections 49 and 51.

(7) Subject to subsection (8), section 160 of the Environmental Protection Act [1990 \(c. 43\)](#) has effect in relation to graffiti removal notices as if they were notices within subsection (2) of that section.

(8) Where after reasonable enquiry a local authority is unable to ascertain the name or proper address of any person who is responsible for a relevant surface, the authority may—

- (a) affix a graffiti removal notice to the surface, and
- (b) enter any land to the extent reasonably necessary for that purpose;

and that notice shall be treated as having been served upon a person responsible for the surface.

(9) In this section a “relevant surface” is any of the following surfaces, whether internal or external or open to the air or not—

- (a) the surface of any street or of any building, structure, apparatus, plant or other object in or on any street;
- (b) the surface of any land owned, occupied or controlled by a statutory undertaker or of any building, structure, apparatus, plant or other object in or on any such land;
- (c) the surface of any land owned, occupied or controlled by an educational institution (including its governing body) or of any building, structure, apparatus, plant or other object in or on any such land.

(10) But a surface is not a relevant surface unless—

- (a) in the case of a surface within subsection (9)(a), the street is public land;
- (b) in the case of a surface within subsection (9)(b) or (c)—
 - (i) the land is public land,
 - (ii) the surface is visible from public land, or

(iii) the surface is otherwise 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.

(11) A person is responsible for a relevant surface if—

(a) where it is the surface of any land (including a street), he owns, leases, occupies, controls, operates or maintains the land, and

(b) where it is the surface of any other thing mentioned in subsection (9), he owns, leases, occupies, controls, operates or maintains the thing.

(12) In this section and in sections 49 to 52—

- “educational institution” has the meaning given by section 98(2) of the Environmental Protection Act 1990,
- “graffiti” includes painting, writing, soiling, marking or other defacing by whatever means,
- “graffiti removal notice” has the meaning given by subsection (2),
- “local authority” means an authority in England and Wales which is a litter authority for the purposes of section 88 of the Environmental Protection Act [1990 \(c. 43\)](#),
- “proper address” is to be read in accordance with section 160(4) and (5) of the Environmental Protection Act 1990,
- “public land” means land to which the public are entitled or permitted to have access with or without payment (including any street to which the public are so entitled or permitted),
- “statutory undertaker” has the meaning given by section 98(6) of the Environmental Protection Act 1990,
- “street” has the meaning given by section 48(1) of the New Roads and Street Works Act [1991 \(c. 22\)](#).

49 Recovery of expenditure

(1) A local authority may recover from the person on whom a graffiti removal notice was served expenditure reasonably incurred in exercise of the power under section 48(4).

(2) A local authority may not recover expenditure from a person under subsection (1) unless it has served on that person a notice which sets out the amount of, and details of, the expenditure which it proposes to recover.

(3) Section 160 of the Environmental Protection Act 1990 has effect in relation to notices under subsection (2) as if they were notices within subsection (2) of that section.

50 Guidance

(1) The Secretary of State must issue guidance to local authorities in England for the purposes of sections 48 and 49.

(2) The National Assembly for Wales must issue guidance to local authorities in Wales for the purposes of sections 48 and 49.

(3) A local authority must have regard to any guidance issued to it under this section.

51 Appeals

(1) A person on whom a graffiti removal notice is served may, within the period of 21 days beginning with the day on which it is served, appeal against the notice to a magistrates' court on any of the following grounds.

(2) They are—

- (a) that the defacement is neither detrimental to the amenity of the area nor offensive,
- (b) that there is a material defect or error in, or in connection with, the notice,
- (c) that the notice should be served on another person.

(3) Where an appeal under subsection (1) is brought, the graffiti removal notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On the determination of such an appeal, the magistrates' court must do one of the following—

- (a) quash the notice,
- (b) modify the notice,
- (c) dismiss the appeal.

(5) Where the court modifies the notice or dismisses the appeal, it may extend the period specified in the notice.

(6) A person on whom a notice under section 49(2) is served may, within the period of 21 days beginning with the day on which it is served, appeal to a magistrates' court on the grounds that the expenditure which the authority is proposing to recover is excessive.

(7) On the determination of an appeal under subsection (6), the magistrates' court must do either of the following—

- (a) confirm that the amount which the authority is proposing to recover is reasonable, or
- (b) substitute a lower amount as the amount which the authority is entitled to recover.

52 Exemption from liability in relation to graffiti removal notices

(1) None of the persons mentioned in subsection (2) is to have any liability to any person responsible for the relevant surface 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—

- (a) the power under subsection (4) of section 48 (including as provided for in subsection (5) of that section), or
- (b) the power under subsection (8) of that section.

(2) Those persons are—

(a) in the case of the power mentioned in subsection (1)(a)—

- (i) the local authority and any employee of the authority, and
- (ii) any person authorised by the authority under section 48(4) and the employer or any employee of that person, and

(b) in the case of the power mentioned in subsection (1)(b), the local authority and any employee of the authority.

(3) Subsection (1) does not apply—

- (a) if the act or omission is shown to have been in bad faith;

(b) to liability arising out of a failure to exercise due care and attention;

(c) 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 \(c. 42\)](#).

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

(5) Section 48(11) is to apply for the purposes of this section as it applies for the purposes of that section.



Resident

Your Ref:
Our Ref:
Enquiries to: Ali Henderson
Direct Line: 0845 6006400
Fax: 01670 533049
E-mail: Ali.Henderson@northumberland.gov.uk
Date:

Dear Sir/Madam

Anti – Social Behaviour Act 2003

Following a cleansing inspection of the area on xxth xxxxxxx 20XX, it was noted an amount of graffiti on the above property. Photographs of the site have been taken.

Northumberland County Council Officers will, if wished, remove the markings, free of charge. Please find enclosed a graffiti removal disclaimer form to complete, sign and return to Neighbourhood Services if work is to be carried out.

Please return within fourteen days and also note that the necessary alterations cannot be undertaken until the Removal Request has been received.

If the Disclaimer is not returned it will be deemed no removal work is to be carried out.

Thank you for your co-operation. If you require any further information or have any queries about the contents of this letter, please contact the call centre on 01670 535000.

Yours sincerely

Ali Henderson
Quality Standards Officer



**ANTI SOCIAL BEHAVIOUR ACT 2003 – Section 48
Defacement Removal Notice**

TO : **XXX**
OF : **XXX**

TAKE NOTICE that under the provisions of the Anti-Social Behaviour Act 2003
Northumberland County Council (The Council)

is satisfied that the INSERT AREA of INSERT ADDRESS has been defaced by graffiti,
and that the defacement is detrimental to the amenity of the area or is offensive.

Therefore Northumberland County Council is imposing the requirement that the
defacement be removed, cleared or otherwise remedied within 28 DAYS MINIMUM from
insert here an exact date 28 days minimum from Notice Date.

If this requirement is not complied with, the authority or any person authorised by the
authority may remove, clear or otherwise remedy the defacement.

In removing the graffiti Council Officers or any person authorised by the authority may
enter any land to the extent reasonably necessary for the purpose of graffiti removal.

Under the terms and conditions of the above Act Northumberland County Council may
recover expenditure reasonably incurred.

SIGNED **XX AUTHORISED OFFICER XX**

DATED **XXX**

N.B. The person(s) served with this Notice may appeal against the Notice to a
Magistrates Court within twenty-one days beginning with the date of service of this
Notice. See notes attached.

NOTES

Defacement Removal Notice (Appeals) Regulations provide as follows:-

APPEALS UNDER SECTION 51 Anti Social Behaviour Act (2003)

(1) A person on whom a graffiti removal notice is served may, within the period of 21 days beginning with the day on which it is served, appeal against the notice to a magistrates' court on any of the following grounds.

(2) They are—

(a) that the defacement is neither detrimental to the amenity of the area nor offensive,

(b) that there is a material defect or error in, or in connection with, the notice,

(c) that the notice should be served on another person.

(3) Where an appeal under subsection (1) is brought, the graffiti removal notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On the determination of such an appeal, the magistrates' court must do one of the following—

(a) quash the notice,

(b) modify the notice,

(c) dismiss the appeal.

(5) Where the court modifies the notice or dismisses the appeal, it may extend the period specified in the notice.

(6) A person on whom a notice under section 49(2) is served may, within the period of 21 days beginning with the day on which it is served, appeal to a magistrates' court on the grounds that the expenditure which the authority is proposing to recover is excessive.

(7) On the determination of an appeal under subsection (6), the magistrates' court must do either of the following—

(a) confirm that the amount which the authority is proposing to recover is reasonable, or

(b) substitute a lower amount as the amount which the authority is entitled to recover.

52 Exemption from liability in relation to graffiti removal notices

(1) None of the persons mentioned in subsection (2) is to have any liability to any person responsible for the relevant surface 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—

(a) the power under subsection (4) of section 48 (including as provided for in subsection (5) of that section), or

(b) the power under subsection (8) of that section.

(2) Those persons are—

(a) in the case of the power mentioned in subsection (1)(a)—

(i) the local authority and any employee of the authority, and

(ii) any person authorised by the authority under section 48(4) and the employer or any employee of that person, and

(b) in the case of the power mentioned in subsection (1)(b), the local authority and any employee of the authority.

(3) Subsection (1) does not apply—

(a) if the act or omission is shown to have been in bad faith;

(b) to liability arising out of a failure to exercise due care and attention;

(c) 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 (c. 42).

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

(5) Section 48(11) is to apply for the purposes of this section as it applies for the purposes of that section.