

**APPENDIX 1**

**MEMORANDUM OF UNDERSTANDING**

**between**

**The Probation Board for Northern Ireland  
(PBNI)**

**and**

**Belfast City Council  
(BCC)**

**In respect of**

**The Probation Graffiti Removal Service**

**2017 - 2020**



**Belfast  
City Council**



**PBNI** Probation Board  
for Northern Ireland

## Summary/Version

Title	Memorandum of Understanding between the Probation Board for NI (PBNI) and Belfast City Council (BCC) in respect of the Probation Graffiti Removal Service
Partners	PBNI BCC
Date of Agreement	27 Jan. 17
Date of initial Review	1 Feb 2018
2nd review	1 Feb 2020
Asset Owner:	PBNI

<b>Version No.</b>	<b>Amendments Made</b>	<b>Authorisation</b>
v 0.1	23.02.16	PBNI
v 0.2	26.02.16	BCC
v 1.0	27.01.17	PBNI/BCC

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## **1. Background and Context**

PBNI has responsibility for the Community Service scheme, whereby offenders are required to undertake unpaid work for the benefit of communities across Northern Ireland, as directed by the Court. The aim of Community Service is for offenders to pay back to the community in a positive way for the damage caused by their offending. Every year thousands of unpaid hours of work are completed, benefiting many communities across Northern Ireland.

Graffiti is an issue in almost every community, defacing surfaces on public buildings, private homes, children's playgrounds, bus shelters etc. The negative impact of graffiti should not be underestimated. Whole neighbourhoods feel the demoralising effect as their area is daubed in unsightly graffiti and clean up is costly.

There is a clear restorative aspect to a Community Service Graffiti Removal Service, in that offenders would be required to contribute to removal of graffiti, which would increase visibility of Community Service, and therefore confidence in Criminal Justice and community sentences.

Partnership between PBNI and BCC is necessary in order to gain access to victims of graffiti, and to supplement the work undertaken by Council attempting to deal with this problem.

- 1.1 This Memorandum of Understanding is a statement of intent that does not give rise to legally binding obligations in respect of either party except where expressly stated.

## **2. Functions and/or remit of the Parties**

### **2.1 PBNI**

PBNI is a non-departmental public body (NDPB) within the Department of Justice (DOJ). It was established by the Probation Board (Northern Ireland) Order 1982 which confirms a number of mandatory and discretionary functions. Additional responsibilities are set out in the Criminal Justice (Northern Ireland) Orders 1996, 2005 and 2008.

Key functions (relevant to this memorandum) are to prepare reports for Courts, to supervise offenders and to ensure that the disposals handed down by the Courts in respect of

offenders are complied with. PBNI also operates a Victim Information Scheme (established by the Criminal Justice (Northern Ireland) Order 2005).

PBNI has the authority to secure the maintenance of an adequate and efficient probation service, secure arrangements for persons to perform work under Community Service Orders and to make and give effect to schemes for the supervision and assistance of offenders and the prevention of crime. PBNI has a statutory obligation to prepare reports for courts to assist the courts in determining the offender's suitability for any community order.

## 2.2 **BCC**

Graffiti is a prevalent and environmental problem, linked to anti social behaviour in many areas of Belfast. BCC have finite resources to deal with the scale of non offensive graffiti throughout the city and we would view this partnership working with the PBNI as a mechanism to addressing some of the non contentious graffiti in the city.

Belfast City Council does not have a statutory duty to remove graffiti. The Council's current practice is to remove graffiti from Council owned property and, in the case of contentious or offensive graffiti; we will remove it from private property with the owners signed permission. This approach is in line with many Local Authorities across the UK. Belfast City Council will continue to remove contentious, offensive, sectarian and racist graffiti with the permission of the property owner and where the Health & Safety of our staff is not compromised.

## 3. **Purpose and application**

- 3.1 PBNI is committed to ensuring the successful operation of the Probation Graffiti Removal Service.
- 3.2 The purpose of this Memorandum of Understanding (MOU) is to clarify the relationship between the Probation Board for Northern Ireland (PBNI) and Belfast City Council (BCC) in respect of PBNI removing graffiti within the Belfast City Council boundaries.
- 3.3 It provides for effective co-operation and communication between PBNI and BCC in respect of the removal of graffiti within the Belfast City Council area.

## **4. Activities**

PBNI is responsible for the activities carried out by the offenders under its supervision. This MOU provides for offenders removing or obliterating graffiti and other environmental clean-up tasks as agreed.

## **5. Underpinning principles**

Parties will adhere to their respective policies, guidance/procedures relevant to the management of information, including data security, records management, retention and disposal arrangements and data handling.

### **5.1 BCC and PBNI are committed to:**

- upholding the individual's rights under the Human Rights Act 1998.
- providing advice and assistance as and when required.
- ensuring relevant information exchanges are timely and accurate.
- promoting equality of opportunity.
- non-discriminatory practice in respect of gender, race, ethnicity, religious beliefs, age, disability, sexual orientation or for any other reason.
- confidentiality in respect of the information shared.
- the principle of consent and will only disclose information with consent or if the law requires it, or if the law allows it and we believe it is important to do so.
- openness and transparency.
- working with the offender to achieve best outcome for all.
- reflecting the attitudes and views of the victim, where appropriate.

## **6. Roles and Responsibilities**

### **6.1 PBNI:**

- (i) PBNI shall purchase the vehicle to be used to carry out the work.
- (ii) Joint PBNI and BCC logo to be placed on the vehicle as appropriate
- (iii) PBNI shall have access to facilities at BCC yard at Duncrue to wash paint brushes etc

- (iv) PBNI shall ensure that the offenders are supervised at all times when they access the BCC yard at Duncrue Industrial Estate to use the storage facilities for the vehicle, to wash paint brushes etc or to use the filling system.
- (v) PBNI shall be responsible for annual maintenance schedule of the vehicle and provision of insurance of the vehicle
- (vi) PBNI shall remain responsible for the vehicle at all times during the course of this MoU.
- (vii) PBNI shall remove non contentious graffiti as agreed with BCC. A list of specific sites that require graffiti removal to be emailed to a Single Point of Contact in PBNI (Community Service Supervisor(s) and Area Manager names to be supplied) on a weekly basis by 4pm on a Thursday to allow PBNI to plan a schedule of work for the following week. BCC will also provide maps where appropriate.
- (viii) PBNI shall get signed agreement from the owner for graffiti removal projects (Appendix 2).
- (ix) PBNI shall ensure the vehicle is washed each week at BCC yard at Duncrue Industrial Estate
- (x) PBNI shall remain responsible for its staff and the offenders at all times during the operation of the Probation Graffiti Removal Service.
- (xi) PBNI shall be responsible for ensuring that the correct personal protective equipment is worn by its staff and offenders at all times and replaced as and when required.
- (xii) PBNI shall ensure that refresher training is provided to its staff when required.
- (xiii) PBNI shall ensure that its staff and the offenders have received the requisite training required to use the approved chemicals, paint and Personal Protective Equipment (PPE) before work is commenced under this MoU.
- (xiv) PBNI shall devise bespoke risk assessment in respect of the work to be undertaken administering this MoU.

## 6.2 BCC:

- (i) BCC shall provide Certificate of Professional Competence (CPC) qualification for PBNI driver / Community Service Supervisor (CSS) and include the CSS in the annual training. 2 CSS to be trained to ensure that the vehicle can be used throughout the year allowing for Annual Leave etc. Dates for training to be agreed.
- (ii) BCC to provide CSS with 'Train the Trainer' course which will allow them supervise the offenders in use of the specific chemicals. 2 CSS and a member of PBNI Health

and Safety Department to be allowed to avail of this training. Dates for training to be agreed.

- (iii) BCC shall allow access to storage facilities for the vehicle at BCC yard at Duncrue Industrial Estate on the understanding that the offenders will be supervised at all times.
- (iv) BCC shall provide access and connection spouts for water hydrants in the event these are required. CSS to use the filling system at BCC yard at Duncrue where possible to prevent PBNI staff having to access hydrants and to provide an emergency contact number in the event of an issue with the hydrant.
- (v) BCC shall provide initial supply of PPE (Hooped trousers, Hi Vis Vests and Gloves) which will be supplemented by PBNI's PPE as required thereafter.
- (vi) BCC to provide approved chemicals and paint to facilitate the removal of graffiti.
- (vii) BCC shall provide traffic management cones / barrier system which should be requested in advance when required.
- (viii) BCC to provide PBNI with current risk assessment for their vehicle and removal scheme so bespoke PBNI risk assessment can be devised by PBNI. The Council's Risk Assessment is for information purposes only and should not be relied upon.

## **7. Liability**

**This Clause is intended to be legally binding on the parties.**

- 7.1 No liability whatsoever shall attach to BCC from the operation of this MoU and the PBNI shall be liable for all activities carried out under this MoU.

## **8. Costs**

- 8.1 Any costs arising from the delivery of the agreed service will be funded by the party that incurs that cost.

## **9. Fair Processing**

- 9.1 It is the responsibility of BCC and PBNI to ensure there is full compliance with the legal principles set out in the Data Protection Act 1998 the Human Rights Act 1998 and the Common Law Duty of Confidentiality insofar as they apply to the information shared under the terms of this MOU. See Appendix 1 for list of the Data Protection principles.



9.2 To ensure compliance with the Data Protection Act, and noting principle 1 (Fairness & Lawfulness), BCC and PBNI will make members of the public aware of the service if they request graffiti removal. A full explanation of the service and the involvement with PBNI is included within the BCC Cleansing website, and the PBNI website. BCC has also included an update within its resident's magazine, which was issued prior to the service becoming live. BCC cleansing call centre staff will additionally update the public when they call BCC requesting graffiti removal. If a member of the public declines the service, BCC will record this refusal and ensure that only BCC staff attend.

## **10. Information Sharing**

The conditions for processing personal data (sharing) found within the Data Protection Act 1998 are as follows: Schedule 2 Condition 1 of the DPA, ie the data subject has given their consent to the processing. No sensitive personal data will be shared as part of this MOU.

- 10.1 Consent is always an overriding factor when sharing personal data and when a member of the public initially contacts BCC to request the removal of graffiti, they will provide their name, address and contact number. It is therefore generally accepted that the person requesting the removal of graffiti is consensually providing their personal data to BCC for this specific purpose. As per 9.2 they will then be made aware of the involvement of the Probation Graffiti Removal Service.
- 10.2 Written consent will be obtained from the person who has requested the removal of the graffiti by the PBNI supervisor when he / she visits the premises to carry out the work, prior to the work being carried out. An agreement form (Appendix 2) must be signed by the person requesting the graffiti removal and a further explanation can be provided to the owner/occupier as to why the graffiti is being removed under this scheme. If issues arise on site PBNI may on occasion decide to not remove the graffiti until issues are resolved.
- 10.3 Requests for graffiti removal are managed by the BCC Cleansing Call Centre and the date and time they are received is logged. BCC requests to remove non contentious graffiti will be allocated by BCC directly to the PBNI supervisors via email to a dedicated PBNI email address (to be provided as per 5.1). PBNI will also consider direct requests for graffiti removal.

10.4 The requests must contain the following data:-

- Name and address of the person submitting the request;
- Contact number;
- Specific address of the graffiti;
- Description of work required;
- Whether a business or private property.

10.5 The PBNI supervisor(s) will retain the signed paper consent agreement form and will not provide this information to any other person. The paper consent agreement form will be returned to BCC Cleansing upon removal of the graffiti and completion of the job. This will be provided to BCC on a weekly basis for record keeping purposes.

10.6 BCC will provide PBNI on a monthly basis with statistics of the number of requests received that have been allocated to them. This will be sent to the dedicated email address.

## **11. Staff Awareness**

PBNI and BCC will ensure that members of their staff who are involved in this service will have adequate training regarding their responsibilities and obligations imposed by this MOU.

## **12. Monitoring and review**

The signatories for each party (para 15) will have responsibility for monitoring the pilot and operation of this memorandum. Monitoring will be ongoing throughout the pilot period and the memorandum will be reviewed initially after 12 months (April 2018). Any changes to the Memorandum must be agreed by each party in writing.

## **13. Termination**

The MOU may be terminated by either party at any time by giving one months notice in writing.

**14. Freedom of Information**

PBNI acknowledges that BCC is subject to the Freedom of Information Act 2000 and as such may be obliged to release details of this Memorandum of Understanding under the said Act.

**15. Signatories**

Responsibility for the operation of this Memorandum and providing assurances that the underpinning principles, policies and procedures (section 5) are being adhered to rests with the following signatories:

**For PBNI**

Name: \_\_\_\_\_

Position: Deputy Director

Signature: \_\_\_\_\_ Date: ...../...../.....

**For BCC**

Name: \_\_\_\_\_

Position: Director of City and Neighbourhood Services Department

Signature: \_\_\_\_\_ Date; ...../...../.....

**16. Date of Implementation**

1 April 2017

**The Data Protection Principles (Part 1 Schedule 1 of the Data Protection Act 1998)**

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
  - (a) at least one of the conditions in Schedule 2 is met, and
  - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of the data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

**GRAFFITI REMOVAL AGREEMENT FORM**

1. PBNI shall use its best endeavours to remove or obliterate via power washing or painting any graffiti (“the works” as described below) situated on the property (as per the address detailed below) at the request of the owner, occupier or controller of the property ( as detailed below), and shall carry out any necessary works in a good workman like manner.
2. PBNI shall remove any of their materials and equipment from the property (as per the address detailed below) upon completion of the works.
3. The owner, occupier or controller of the property ( as detailed below) will indemnify and hold harmless PBNI and its employees, servants, agents or any other person against all actions, costs , claims, demands and expenses incurred (other than those arising from the negligence of PBNI or its employees, servants, agents or any other person) in respect of:
  - a. Personal Injury to or loss of life of the owner, occupier or controller, or any third party, and
  - b. Loss or damage to any property ( as per the address detailed below) belonging to the owner, occupier or controller of the property, their employees, servants, agents or any other person.

Address of property:

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Description of the works required:

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Requested by:

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Business or Private Property:

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Other (please state)

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Signed by the Owner/Occupier/Controller \_\_\_\_\_

Dated this    day of                    20