

City of York Council's Public Protection Services

Public Protection

Background

Public Protection currently consists of a wide range of regulatory services, including environmental protection, food safety and standards, health & safety, trading standards, plus licensing and some animal health functions.

We have a statutory duty to undertake some aspects of work i.e. they are 'non-discretionary'. These largely relate to enforcement duties such as duties to investigate noise complaints, undertake food inspections and enforce laws relating to unfair and unsafe trading. Other aspects of our service are 'discretionary' but are undertaken to prevent enforcement action becoming necessary or because they provide an important contribution towards the council's priorities.

The Localism Act 2011 allows Local Authorities to '*do anything that an individual can do*' which includes, subject to some restrictions, charging for discretionary or enhanced services. These restrictions include charging at 'cost recovery' rate where the recipient agrees to the charge. A Local Authority cannot charge for statutory services it has a duty to provide unless there is provision for a charge.

Where Local Authorities wish to 'trade' (and make a profit) this must be done through a trading company. The City of York Council has a trading company, City of York Trading, to facilitate this but Public Protection do not 'trade' its services.

The income is achieved through a combination of the following:

- **Consultancy including**
 - Environmental Protection including noise, contaminated land and air quality advice (formerly under the brand name 'YES Consultancy')
 - Pre- food hygiene rating advice

- **Primary Authority**
- **Approved Garage Scheme**
- **Other miscellaneous activities including**
 - Specialist trading standards officer support to fraud investigations
 - Food hygiene rescore visits

Charging rates

Public Protection's cost recovery rates include officer salary, tax, national insurance and pension contributions. They also include overheads and the cost of support staff.

Most chargeable work is undertaken by Environmental Health Officers and Trading Standards Officers on Grade 10 for which the 'cost recovery' rate is currently £70.69 per hour.

Consultancy

What is Consultancy?

This term is used to define detailed advice by our officers given in response to a request from a business.

Consultancy may include carrying out visits, testing, analysis or training and will usually result in a bespoke written report or other material that the client can rely upon. It will often include specific recommendations on whether or not the business is complying with the law or meeting other standards.

The Environmental Protection 'consultancy' services have been operating under the brand name 'York Environmental Services' or 'YES'. This brand was developed by officers with the intention of being more easily identifiable to customers. However, in the interests of transparency, it has since been decided to discontinue the brand name YES Consultancy and revert to the City of York Council brand.

Examples of consultancy work

Our environmental consultancy is provided to:-

- Other local authorities – particularly in relation to contaminated land, and air quality strategy advice.
- Businesses seeking noise assessments as part of planning applications or to deal with complaints about noise or other causes of nuisance*
- A variety of work for planning and other environmental consultants (as subcontractors) and private developers*
- ‘Pre-food hygiene inspection rating’ advice to help local, York, businesses improve their food hygiene rating score (please note that a different team of officers carry out the official visit on which the score is given).

*Please note that much of this work is for businesses outside of the City of York boundary, and due to local work demands we have scaled back our work in this area.

For the avoidance of doubt, consultancy does not currently include ‘ad hoc’ requests for advice on ‘what the law says’. Basic advice and signposting to more detailed guidance continues to be provided **‘free of charge’**. Where customers require more detailed/tailored advice on compliance (taken to be more than 30 minutes) a charge is made. Furthermore, ‘consultancy’ does not include instructions to comply with the law as part of our enforcement function i.e. where we are requiring a trader to take action to avoid formal enforcement action being taken.

Primary Authority

What is Primary Authority?

Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the Act). It allows an eligible business to form a legally recognised partnership with a single Local Authority in relation to regulatory compliance. This local authority is then known as its ‘Primary Authority’. It is administered nationally by the Office of Product Safety and Standards.

Primary Authorities play a valuable role in leading and shaping the regulation of businesses that partner with them. The areas that are covered by ‘Primary Authority’ agreements are specified in the Act and include most fair trading, environmental health and health & safety matters.

When entering into a ‘Primary Authority’ partnership, the Local Authority co-ordinates the regulation of the business. For example, the Local Authority can

provide other regulators with inspection plans and handle complaints about the business. Any advice given to the business about the law or their processes and procedures is 'assured advice' upon which the business is entitled to rely without challenge from other Regulators (i.e. subject to limited exceptions the Primary Authority can prevent another authority taking enforcement action).

The Act allows Local Authorities to 'cost recover' for Primary Authority work. We have a Primary Authority relationship with several businesses.

Approved Trader Schemes

What are Approved Trader Schemes?

The public are often anxious when purchasing items and requesting services from unknown businesses. In turn, these businesses are keen to maintain their reputation and distinguish themselves from "rogue" traders. An approved trader scheme gives confidence to the public that the businesses they use are reputable, having been checked and approved by trading standards officers. It also gives businesses a competitive advantage in marketing their goods/services as they are able to advertise as "Trading Standards Approved". To become "Trading Standards Approved", a business has to meet certain criteria and maintain those standards (assessed by audit and monitoring complaints).

Motor Traders

We operate an approved trader scheme in the motor trade sector for garages which have processes and procedures to prevent problems arising with the cars they sell or the repairs they undertake. However, these traders have systems in place to put things right in the small number of cases where things don't go as planned. Trading Standards officers periodically audit these businesses to check compliance with the required standards.

Other trade sectors

CYC Trading Standards have operated similar schemes in the past – although not 'approved' the traders as such. We created the 'Home Services Directory' with Age UK York to identify traders such as plumbers, builders and many others who could be trusted to undertake work in the homes of elderly and vulnerable people. This scheme is still operated today and is administered by Age UK. As part of this scheme we 'vet' applicants for any serious complaints about their practices, but they are not 'approved'.

Other miscellaneous income activities

- Food hygiene rescore visits

The Food Standards Agency enable a business which is dissatisfied with its food hygiene rating to either appeal (free of charge) or request a rescore visit (chargeable). We charge where a request for the latter is made.

- Financial investigations

A number of our officers have trained and qualified as financial investigators. We make these officers available to other local authorities to help recover property and other financial gain obtained from criminal activity.

- Alternative Dispute Resolution

Trading Standards officers are often involved in trying to help resolve disputes between traders and their customers. This can be stressful time for both parties. A new area of work we are developing is a 'mediation service' which traders can 'subscribe to' and call upon to help resolve any disputes which arise. A recent consumer green paper, which advocates greater use of alternative dispute resolution, identifies that mediation is less formal and cheaper than the courts. It can also help the parties maintain a future relationship which the combative nature of the court system is not always conducive to and is something that the government is encouraging. A number of trading standards services are providing this for local businesses.