

Activities that currently take place with the permission of the City of York Council (the Council): -

Markets (City Centre Management)

The Council has a Markets Charter and therefore has the right to hold markets in Newgate and Parliament Street. Under this Charter there is the right to charge a 'toll' for traders wishing to operate at these markets.

Street Trading Activities (Licensing Section)

All street within the City of York are designated Consent Street for the purpose of street trading under Paragraph 2(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act). This means that a Street Trading Consent issued by the Council is required where articles are sold or offered for sale in the street or on land to which the public have access without payment. Therefore trading activities such as the flower stall on Davygate, the Hot Sausage Company and ice cream stand on St Sampson's Square, the key cutter in Tesco car park and the ice cream rounds operating in our area all operate with our authorisation and hold street trading consents. Occasional consents are also issued for buskers selling CD's, the markets that take place in St Sampson's Square and Coppergate Centre, fetes and gala's and car boot sales. Fees are payable for these consents.

Charitable Collections (Licensing Section)

Under the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 the Council authorises static and mobile collections to take place on the street (this includes public highway and private land). Within the city centre only 1 collection per day is authorised with a maximum of 4 collections in any week. In the case of static collections the locations where this can take place is stipulated. In the case of mobile collections the route of the collection is agreed. Authorisation permits are issued and each collector must display an authorisation badge (labels are issued for each collector to display). There is no fee payable for collection permits.

Under the House to House Collections Act 1939 the Council authorises house to house collections. This enables charities or businesses to collect money or items. If charities or businesses hold a Home Office Exemption Order they do not have to apply to the local authorities for authorisation to hold a house

to house collection in their area. There is no fee payable for authorisation to collect.

Periodicals (City Centre Management)

The sale of periodicals is exempt from street trading legislation, however the Council has agreements in place with The Press and Big Issue with regards to their dedicated pitches in the city centre.

Face to Face Collections (Licensing Section)

Face to face collections do not come under the definition of a charitable collection as no money is collected on the street. This type of collections only takes people's personal details on behalf of charities. The Council has agreements in place with five companies who regularly hold this type of collection in the city centre. Before visiting the city they contact the Licensing Section to ask for permission.

Buskers (City Centre Management)

The Council encourages busking within the city centre. Buskers must firstly apply for a permit to busk from the City Centre Management Office. If buskers wish to sell CD's they must also obtain a street trading consent from the Licensing Section. A fee is payable for the permit and the street trading consent.

Activities that take place that do not require the permission of the City of York Council

Pedlars

Pedlars are able to operate under the Pedlar's Act 1871. Pedlar certificates are issued by the police. Persons acting lawfully as pedlars are exempt for the requirements of street trading. To act lawfully as a pedlar a person must:

1. **'Act'** as a pedlar.
2. **'Travel and trade on foot'** – this makes the legal definition of a pedlar an individual who sells whilst on the move.
3. A trader who stands by a portable stall, that is, one who trades on foot in that more limited sense is **'not a pedlar'**.

4. **'Must move'**, this requires that a pedlar **'must go to his customers'**, he is permitted to then stop and trade, but he is not permitted to set up a stall in a pre-selected location inviting customers to come to him.
5. **'Go from town to town'** or to other's houses, carrying to sell or exposing for sale any goods, merchandise, etc.

In the past the city centre has had major issues with pedlars, especially during the Christmas period. It is very difficult to do enforcement work in relation to pedlars acting unlawfully. To claim that a pedlar is acting as an illegal street trader they have to be witnessed staying in one location for a period of time, establishing themselves a pitch. Case law has shown that a pedlar must stay in one location (without moving) for at least 20-30 minutes without making a sale before they can be classed as illegally street trading. Case law has also shown that a pedlar that stays in one area for a period of time but keeps moving is not classed as illegally street trading, for example a trader who just walks around the fountain on Parliament Street all day and only stops to make a sale is not street trading. A large percentage of pedlars are aware of the case law and know how to act just inside the law.

Trading Standards are able to take action against pedlars if they are selling counterfeit or dangerous goods.

Recently the police have dealt with any pedlars that come into the city centre under their own legislation.

Gag Mag Sellers

As this publication is produced periodically it is classed as a periodical and therefore is exempt under street trading legislation.

There are no dedicated pitches for sellers to operate from, they do not have to inform anyone from the Council when they intend to come into the city to trade, so they can, and do, turn up at anytime and trade anywhere.

The Council receive complaints about the activities of these sellers. Some people are concerned that the 'gag mags' may be mistaken for 'rag mags' (magazines produced by students to raise money for charity), and that the seller's behaviour can be intimidating.

Trading Standards officers can take action in relation to misleading claims or 'aggressive' sales practices but only where the seller's behaviour causes (or is likely to cause) a buyer to act in a way that they wouldn't otherwise have

done e.g. causes them to buy a magazine that they wouldn't otherwise have purchased.

A number of sellers also have pedlars' certificates.

Leaflets / Flyers

To promote their shops / restaurants / bars / etc a number of businesses have promotional staff giving out leaflets/flyers in the city centre. This is more prevalent on Friday and Saturday evenings as late bars and nightclubs have lots of promotional staff situated in Coney Street and on Ouse Bridge. This can cause a major litter problem for the city. Businesses do not require permission from the Council to give out leaflets/flyers. The Street Environment Service writes to businesses if a major litter issue does occur.

Local authorities can take further action by bringing in a designated place order under Section 94b, Schedule 3a of the Environmental Protection Act 1990 (distribution of free printed matter) (as inserted by Section 23 of the Clean Neighbourhoods and Environment Act 2005).

Before an authority can introduce a designated place order consultation must take place. Once introduced any businesses wishing to distribute leaflets/flyers would have to apply to the authority for consent and pay a fee. Businesses distributing leaflets/flyers without the consent of the Council could face prosecution with maximum fines up to £2500 and fixed penalties.