

**Decision Session – Cabinet Member of Crime
and Community Safety**

17 January 2014

Report of the Assistant Director – Housing and Community Safety

The Primary Authority Principle

Summary

1. This report explains the Primary Authority Scheme ('the scheme') and explains the benefits to business and the Council in entering into such arrangements. It seeks authority to establish partnerships under the scheme.

Background

2. In October 2008 the Government set up the Local Better Regulation Office (LBRO). The role of the LBRO was to improve the local authority regulation of environmental health, trading standards, fire safety and licensing in line with the statutory principles of good regulation¹. These principles are that: regulation should be transparent; accountable; proportionate; consistent; and targeted.
3. LBRO was also tasked with operating the scheme which was established by the Regulatory Enforcement and Sanctions Act 2008 to allow businesses to form a partnership with a statutory basis with a single local authority. The scheme addresses the fact that businesses that trade across council boundaries can be subject to differing requirements from the many different local authorities that may regulate them. This undermines consistency and increases unnecessary burdens for business. It can also mean that regulation of the business is less effective, reducing the impact that local authorities could have on increasing protection for their citizens, workers and the environment.

¹ Legislative and Regulatory Reform Act 2006, section 21

4. From 1 April 2012, LBRO ceased to exist and responsibility for the scheme now rests with the Secretary of State for Business, Innovation and Skills, with the Better Regulation Delivery Office (BRDO) operating the scheme on behalf of the Secretary of State.
5. Primary Authority allows a business to form a partnership with a single authority and this partnership, once it has been nominated by BRDO, has a statutory basis. The business, by choosing to participate in the scheme, demonstrates both its commitment to working in partnership with regulators and its desire to improve its experience of local regulation.
6. A Local Authority that offers Primary Authority to businesses is demonstrating its willingness to work constructively with a business to improve its compliance, and is taking on responsibility for leading and shaping the regulation of that business across its operations. It does this by providing tailored, assured regulatory advice to the business and by guiding the way that other local authorities regulate the business so that it is both effective and efficient, including through the sharing of compliance information.
7. Primary Authority represents an important support service to locally based business. As one of the Council's priorities is to create jobs and grow the economy, providing support to business is important. York is the fourth best performing economy of 64 UK cities, contributing £4bn to the national economy² and is regularly voted one of the most attractive places to live and work³. The businesses in York have evolved from a railway and confectionary base to a range of industry and research supporting 117,000 jobs.
8. The Council has an obligation under the Regulator's Code⁴ to provide businesses with advice and guidance about their legal obligations in respect of environmental health, trading standards, fire safety and licensing legislation. Where businesses require additional advice and support services under Primary Authority the Act enables the council to recover the costs associated in providing these services from the business. This will allow greater impact to be achieved from the existing resources deployed in providing support to business on regulatory issues.

²http://www.york.gov.uk/info/200567/york_data_observatory/247/york_data_observatory/2

³ Lonely Planet ranking of top 200 places to live

⁴ Regulator's Code: Statutory Code of Practice for Regulators, BRDO, July 2013.

9. Primary Authority is administered by BRDO. Standard terms and conditions for agreement between the local authority and a partner business have been made available by BRDO. These terms and conditions mitigate the risks for participating local authorities to the minimum allowable in law.
10. Primary Authority changed significantly on 1st October 2013, when the Enterprise and Regulatory Reform Act 2013 came into force. This change meant that the scheme is now accessible to more businesses, covers more regulations and has strengthened the inspection plans aspect of the scheme. Now the council may be primary authority for businesses that do not trade across local council boundaries but do share an approach with at least one other business that trades in a different local authority. These shared approaches will typically be co-ordinated by a business' trade association or its franchisor where the business is a franchisee.
11. The council currently supports local business giving advice to those businesses that may operate in other council areas. This support is voluntary and provided on an ad hoc basis. For example there is a voluntary agreement in place between City of York Council and Nestle Confectionary which has involved providing advice to both the company and other local authorities. Whilst this advice will be valued by business, the following limitations apply:
 - Business may wish for a higher level of advisory input than we are currently able to resource;
 - Business may lack the confidence to rely on the advice given by this local authority as there is no requirement for other local authorities to respect the advice we have give;
 - Business may feel frustrated that the effort they put into working with this local authority to improve their compliance is not recognised by other local authorities;
 - There is no dispute resolution mechanism should local authorities disagree over interpretation of legal requirements, leaving business in a difficult position.

Recommendations

12. That the opportunities to enter into Primary Authority agreements with business be explored with a view to creating a framework for the scheme within City of York Council area.

13. That the cost of providing Primary Authority be investigated to ensure that appropriate arrangements are made for cost recovery are made so there is no net cost to the council whilst ensuring the service is affordable particularly for new or smaller business.

Options

Option 1 is to support the two recommendations.

Option 2 is to dismiss the two recommendations.

Analysis

14. The advantage of entering into the scheme as outlined in Option 1 are:
- It shows the Council's commitment to business;
 - Formalises the voluntary agreement already in place;
 - Provides a structure for business to work with when seeking and obtaining advice;
 - Ensures business is dealt with consistently and allows business to make best use of their time in contact with one Council.
15. Option 2 denies businesses these opportunities.

Council Plan

16. The Council Plan recognises that successful businesses in York are critical to the city's economic success. By providing advice to those businesses that operate in York that can be transferred to other sites outside the city we are supporting business to be successful.

Implications

- **Financial** – Any Primary Authority Partnership will be established on a cost recovery basis. The aim will be to commit to any relationship on a three year cycle.
- **Human Resources (HR)** – There may be additional resource required depending on the nature and extent of the Primary Authority partnerships created. However, as noted above this

will be on a cost-recovery basis. The CYC may need to factor into the operating cost potential redundancy costs.

- **Equalities** – There are no equalities implications associated with this report.
- **Legal** – There are no legal implications associated with this report. The partnerships will be governed by standard agreements supplied by BIS.
- **Crime and Disorder** – The aim of establishing a Primary Authority Partnership is to improve compliance with regulatory matters, thereby reducing crime and disorder.
- **Information Technology (IT)** – There are no IT implications associated with this report.
- **Property** - There are no IT implications associated with this report.
- **Other** – There are no other implications associated with this report.

Risk Management

There are reputational risks to the council in failing to offer the scheme to our regulated businesses.

Recommendations

To support option 1 as outlined in paragraph 4 (and paragraphs 3.1 and 3.2).

Reason: To support local businesses by reducing the burden of regulation.

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Report
Approved

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Specialist Implications Officer(s) *List information for all*
Implication i.e. Financial *Implication i.e. Legal*
Name Name
Title Title
Tel No. Tel No.

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

There are no background papers to this report.

Annexes

There are no annexes to this report.