

Notice of meeting of

Decision Session - Executive Member for Neighbourhoods

To: Councillors Reid (Executive Member)

Date: Tuesday, 16 February 2010

Time: 4.00 pm

Venue: The Guildhall, York.

AGENDA

Notice to Members- Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

10am on Monday 15 February 2010, if an item is called in *before* a decision is taken, *or*

4pm on Thursday 18 February 2010, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

1. **Declarations of Interest**

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Public Participation - Decision Session

At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **5:00 pm on Monday 15 February 2010**.

Members of the public may speak on item on the agenda, an issue within the Executive Member's remit, or an item that has been published on the Information Log for the current session. There are no information reports for this session.

Any written representations in respect of items on this agenda should be submitted to Democratic Services by **5pm on Friday 12 February 2010**.

3. Finance and Performance Update Report (Pages 3 - 30)

This report sets out performance and finance information for the Neighbourhood Services portfolio. It reports the performance position to the end of December 2009 and the finance position to the end of November 2009. I

4. Contaminated Land Update (Pages 31 - 110)

The purpose of this report is to seek approval by the Executive Member for Neighbourhood Services for the adoption and publication of an update contaminated land strategy. The report also provides an update on the outcome of the recent contaminated land grant applications made to the Department for Environment, Food and Rural Affairs (DEFRA).

5. Food Hygiene - 'Scores on the Doors' Update. (Pages 111 - 118)

The purpose of this report is to update the Executive Member on the progress of the food hygiene 'Scores on the Doors' scheme that was launched in June 2009 and to seek approval of the Executive Member to continue with the York scheme, pending introduction of a national scheme by the Food Standards Agency.

6. Investment in Containment and (Pages 119 - 132) Presentation - Recycling Boxes.

This report asks the Executive Member for Neighbourhood Services to consider the options outlined in the report and approve the recommendation made by Officers.

7. Any other business which the Chair considers urgent under the Local Government Act 1972

ADDITIONAL COMMENTS ANNEX

Democracy Officers:

Name: Laura Bootland

Contact Details:

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- E-mail- laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Decision Session) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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Member Decision Meeting – Neighbourhood Services

16th February 2010

Report of the Director of Neighbourhood Services

FINANCE & PERFORMANCE UPDATE REPORT – Quarter 3 2009/10

Summary

- 1 This report sets out performance and finance information for the Neighbourhood Services portfolio. It reports the performance position to the end of December 2009 and the finance position to the end of November 2009.

Background

- 2 This paper provides a progress update on the performance and financial position of the portfolio.

Financial Overview

- 3 The Neighbourhood Services portfolio is forecasting an overspend of £359k after identification of in year savings of £200k. This is a variation of 1.14% of the net expenditure budget.
- 4 Further savings have been identified which are shown in the 'recovery plan' at annex A.
- 5 The current general fund revenue budget for the Neighbourhood Services Portfolio is £31.622m, including the budget contribution to Safer York Partnership.
- 6 Current projections for the general fund portfolio show expenditure of £31.981m compared to budget, an overspend of £359k which represents a variation of 1.14% on the net expenditure budget.
- 7 The financial position for each General Fund service area is dealt with separately in the following sections. The overall position is summarised in table 1:

Table 1: Overall financial position by service

	Exp Budget	Income Budget	Net Budget	Forecast	Var'n	Var'n
	£000	£000	£000	£000	£000	%
Env Health & Trading Standards	3,177	(980)	2,197	2,201	4	0.18
Bereavement Services	468	(1,347)	(879)	-828	51	(5.80)
Registrars Service	401	(375)	26	11	(15)	(57.69)
Licensing & Regulation	713	(721)	(8)	(24)	(16)	200
Neighbourhood Management	1,308	(379)	929	871	(58)	(6.24)
Ward Committees	1,145	0	1,145	1,145	0	0
Building Maintenance	7,719	(7,510)	209	209	0	0
Highways Maintenance	18,819	(7,393)	11,426	11,426	0	0
Waste Services	14,266	(5,041)	9,225	9,661	436	4.73
Cleaning	3,477	(3,269)	208	266	58	27.88
Neighbourhood Pride Service	6,197	(3,567)	2,630	2,758	128	4.87
Parking Services	3,566	(642)	2,924	3,029	105	3.59
Enforcement and Environment	684	(5)	679	679	0	0
Contribution to Safer York Partnership	583	0	583	583	0	0
Transport & Overheads	4,238	(3,910)	328	(6)	(334)	(101.83)
General Fund Total	66,761	(35,139)	31,622	31,981	359	1.14

8 Details of the variances are covered later in the report but the significant variances as reported previously, and which have not changed in the month, are as follows:

- Unbudgeted legal costs due to the loss of the Elvington Airfield case are expected of £28k.
- An overspend on Bereavement services of £51k due to reduced income and additional costs for maintenance.
- Higher levels of income in Registrars of £15k
- There is an overspend on Landfill Tax of £200k
- Unbudgeted security costs at Towthorpe HWRC are forecast at £75k.
- A delay on the construction of the Silver Street Toilets new facility means that £31k of the income target for the year will not be achieved.

- A one-off underspend in Transport of £200k on vehicle leases.
 - An underspend on utilities of £26k.
 - An overspend on the Cleaning account from funding the purchase of swine flu materials of £65k offset by spending controls on other materials of £7k
 - Additional one-off vacancies and underspends on overhead budgets have been identified of £108k.
- 9 Additional variances have been identified in the month in the following areas:
- There is a forecast overspend on Commercial Waste of £161k as income is not projected to achieve target.
 - Income from penalty charge notices (PCN's) is forecasting to overspend by £105k.
 - An overspend on the Neighbourhood Pride Service of £121k offset by an underspend on Abandoned cars of £24k.
 - Underspends on staffing costs due to vacancy management across the directorate of £98k.
- 10 Other pressures identified within the directorate budget are being met, wherever possible, by underspends.
- The corporate cost of swine flu materials is being met within the current bottom line.
 - The directorate is preparing to take out MoreForYork in-year savings and maximising these wherever possible to aid the corporate overspend.
 - Progress on the recovery plan target of £460k is identified at annex A.
- 11 Further pressures identified since the work on the November accounts are:
- Winter gritting and basic highways maintenance is currently overspending due to higher than expected volumes of work due to the recent harsh weather conditions.

Performance Headlines

- 12 Key issues include:
- Of 5 Sustainable City actions within the corporate strategy, 1 is complete, 2 on target and 2 will be delivered late. Of 5 relevant Safer City actions, 3 are complete, 1 on track and 1 late.
 - 82% of the portfolio's national performance indicators that are measurable at this point are on target, while 75% are improving on last year.
 - Both of the portfolio's LAA targets (NPI4 and 191) are forecast to be met.
 - The Moreforyork project blueprint has been agreed and implementation work begun.

Financial Performance

Revenue

Environmental Health and Trading Standards

- 13 The current projection forecasts that this account will overspend by £4k. The variance is as follows:
- Legal fees are forecasting to overspend by £28k in respect of the Elvington Airfield appeal. Costs of losing the High Court appeal are expected to be £10k plus reimbursement of costs of £18k.
 - This is offset by vacancies in the Environmental Health and Trading Standards establishment which is expecting to underspend on salaries by £24k.

Bereavement Services

- 14 This account is expected to overspend by £51k. The variances are as follows:
- The number of cremations are currently down compared to the same time last year and if the profile continues this may give an overspend of £31k for the full year.
 - A major repair has been required to one of the cremators giving an overspend of £10k
 - Medical referee fee charges have increased and the consequential impact is a forecast of £10k overspend.

Registrars Service

- 15 Registrars are currently experiencing higher levels of income on outside marriages and baby naming packs giving higher levels of income of £15k. It is expected that this trend will continue.

Licensing and Regulation

- 16 The current projection forecasts that there will be an underspend of £16k due to staff vacancies.

Neighbourhood Management

- 17 Vacancies in the Neighbourhood Management Unit are expected to give a one-off underspend for the year of £58k. This is due to the Head of Service post being vacant during the recruitment process plus other vacancies in the team.

Ward Committees

- 18 The current projection forecasts that there will be no overspend.

Building Maintenance

- 19 The current projection forecasts that there will be no overspend.

Highways Maintenance

- 20 The current projection forecasts that there will be no overspend with the exception of the winter gritting and basic maintenance budget.
- 21 Winter gritting and basic highways maintenance is currently overspending due to higher than expected volumes of work due to the recent harsh weather conditions. Up to the end of December the budget of 50 grits for the year had been spent. Work to the middle of January has been calculated at approximately £300k for gritting alone therefore additional costs above this will be incurred on repairing pot holes.

Waste Services

- 22 The current projection forecasts that this account will overspend by £436k. The variances are as follows:
- Landfill Tax is currently forecasting to overspend by £200k. During the 2009/10 budget process it was recognised that there was insufficient budget to cover costs and £400k was included in contingency. Tonnages have reduced due to the credit crunch as fewer consumables are purchased and therefore disposal of packaging has reduced. The forecast overspend of £200k is based on the current position therefore if there is an upturn in the economy these forecasts may increase. The contingency has now been set aside to assist with the overall corporate overspend therefore no further requests from contingency can be made.
 - Unbudgeted spend on security at Towthorpe Household Waste Recycling Centre (HWRC) gives a forecasted overspend of £75k. A growth bid was submitted and approved at the 2009/10 budget process to improve security fencing at the site. £83k was included in contingency for additional security whilst the works were undertaken. These works have now been completed however this has not resolved the issue and security patrols are still required. As explained above, this item cannot be requested from contingency.
 - The Commercial Waste account is forecasting to overspend by £161k. This is due to reduced income which is in part due to price increases but also a number of national contracts have been lost and a greater number of small businesses are closing during the recession. This is the net position after taking into account the reduced tonnages from collecting less waste.

Cleaning

- 23 There is an overspend of £65k on the Cleaning account from funding the purchase of swine flu materials. This is offset by spending controls on other materials of £7k to give a total overspend on this account of £58k.

Neighbourhood Pride Service

- 24 The current projection forecasts that this account will overspend by £128k. The variance is as follows:
- There has been a delay on the construction of the new Silver Street Toilets facility which will replace Parliament Street Toilets. The delay means that the income target will not now be achieved. It is forecasted that this will overspend by £31k.
 - The main Neighbourhood Pride account is currently forecasting an overspend of £121k. The grounds maintenance element of this service has recently been

restructured with the removal of the client/contractor split and the move to SLA's with departments.

- The Abandoned Cars account is forecasted at a £24k underspend.

Parking Services

- 25 The current projection forecasts that this account will overspend by £105k which is due to reduced income from Penalty Charge Notices (PCN's). This is in line with the trend of last year.

Enforcement and Environment

- 26 The current projection forecasts that there will be no overspend.

Transport

- 27 The current projection forecasts that there will be an underspend of £200k on vehicle leases. This is after identifying in-year savings to assist with reducing the Neighbourhood Services overspend. By delaying the purchase of vehicles by a few months into the next financial year, a saving on the lease can be made. This would be offset by the additional repair costs but should still give a one-off non-recurring saving of £200k which would not place a financial burden on future years.

Overheads

- 28 The overhead account is forecasting an underspend of £134k This is due to:
- An underspend on the Depot utilities of £26k
 - Underspends on vacancies and office budgets of £108k.

Performance: Relevant LAA measures

- 29 The Directorate leads on 6 LAA indicators, 2 of which are relevant to this report. The other indicators are relevant to the Community Safety portfolio.

Table 2: Progress on LAA measures.

Indicator	Improving?	On Target?
NPI 4: Community Engagement: Percentage of people who feel they can influence decisions in their locality. This is a Place Survey measure and in 2008/09 the overall figure was 31.7%, which is a top quartile outturn and seventh highest among Unitary councils. Talkabout 33 asked an identical question – 36% of respondents agreed. Care must be taken in comparing the Talkabout survey result with the Place Survey result as the survey methods are different, so we are treating this as stable. On basis of ongoing work to engage with young people and tenants, and to develop neighbourhood planning– we are treating this as on target.	Stable	Yes
NPI 191: Waste Management: Kilograms of residual (i.e. landfilled) household waste collected, per household. The latest available forecast (Q3) is 600kg which is on target. This is a forecast 5% reduction on last year, and continues the decrease seen over the last five years.	Yes	Yes

Corporate Strategy

30 The Directorate leads on a number of the commitments within the Safer City and Sustainable City sections of the Corporate Strategy. Of the 5 Sustainable City actions led by NS, 1 is complete (Groves trial), 2 are on track, and 2 are off track (complete Easy@York review of environmental services by Summer 09, introduce technological devices for NPS and waste by Sept 09). Of the 5 Safer City actions relevant to the portfolio, 3 are complete (cold calling control zones, under-age alcohol sale testing programme, target hardening), 1 is on track (alleygates) and 1 will be delivered late (capable guardian schemes). Table 4 shows the progress on the corporate strategy actions.

National Performance indicators

31 The Directorate leads on 43 national performance indicators, 18 of which are relevant to this portfolio. The other indicators are relevant to the Community Safety portfolio.

32 This section shows progress on NS performance indicators up to end December 2009 where there is updated data to use. Table 3 shows headline figures on the number of NPIs on target, improving and declining. Overall we can report/forecast 12 of the 18 NPIs at this stage:

- 82% of the NPIs that had a target set are forecast to hit that target,
- 75% of the indicators are improving, where we can measure improvement. The other indicator is stable.

Table 3: Neighbourhood Services National Performance Indicators

NS indicators	Total reported	On target?	Improving?	Declining?	Stable?
National Indicators set	12 of 18 (67%)	9 of 11 (82%)	9 of 12 (75%)	2 of 12 (17%)	1 of 12 (8%)
Off target			Declining		
NPI192: % of household waste recycled and composted NPI193: % of municipal waste landfilled			NPI192: % of household waste recycled and composted NPI193: % of municipal waste landfilled		

Directorate Plan

33 The Directorate Plan sets out 11 priorities (6 Service and 5 Org Development). Under these headings, we agreed 89 actions and measures. The service priority actions and measures include work on safer city. At end December:

- 71% of the Development priority actions and measures are on track.
(75% at Q2, 71% at Q1, 74% last year)
- 72% of the Service priority actions and measures are on track.
(66% at Q2, 58% at Q1, 66% last year)
- 71% of the Directorate Plan actions and measures are on track.
(70% at Q2, 63% at Q1, 70% last year)

34 Table 5 provides an overall assessment.

Table 4: Assessment of Corporate Strategy Actions – at end December 2009.

Priority vision	CYC commitments	Improvement by 2012	2009/10 action / milestones	Progress	Comments
We want York to be a safer city with low crime rates and high opinions of the city's safety record	We will reduce the number of burglary and thefts within the city, utilising all available funds, such as target hardening	Reduce serious acquisitive crime by at least 18% (LAA)	A number of alleygates to be completed in South Bank and Leeman Road. If the LAA bid is successful, the total will be 60 gates will be in place by March 2010	On track	The LAA bid for Gates was not successful. However alternative funding has been found - SYP allocated £16k from SSCF and negotiated with Neighbourhood Services for a further £50k from the Highways Maintenance budget. Alleyways have been identified and site visits and consultation have taken place and the legal notices have been served. Procurement is completed, with the installation of 38 gates in South Bank and Leeman Road by end of March 2010.
As above	As above	As above	Create 40 new Cold Calling Control Zones by March 2010	Complete	Exceeded the target of 40 - now over 100 zones in place across York. A satisfaction survey has been sent out to 500 residents within zones to gauge the effectiveness of the zones and consumer satisfaction. Of 166 respondents, 66% felt less concerned about doorstep crime, and just 2% felt more concerned. 82% felt that they could call with cold callers, and 8% did not feel able to. The 8% have provided a range of further comments which will inform the future development of the initiative.
As above	As above	As above	Create a target hardening pot for CYC tenants who are burglary victims – to replicate and compliment the existing Home Security Grant.	Complete	Housing Services have extended the type of equipment they offer to include PIR lights, door and window locks, shed locks, door viewers and have also agreed to fund on basis of need rather than restricting the scheme to tenants in painting and repairs programme areas only. SYP have allocated £10k to this project. A handyperson scheme, managed by the Yorkshire Housing foundation started in September 2009 – funding was realised from a bid to the Home Office Safer Homes Fund by SYP, CYC, Yorkshire Housing, the Home Improvement Agency and Community Watch. The

					scheme will fund the fitting of security equipment for the elderly and vulnerable groups. This is an extension to the existing successful scheme run by Yorkshire Housing and the Home Improvement Agency, which presently undertakes small repairs for the same client group. Work has also been developed with the Energy Trust to distribute timer switches and low energy lightbulbs through Community Watch events and Ward Committees.
As above	We will reduce the number of first time entrants into the criminal justice system and tackle public perception of ASB.	Reduce the proportion of the public concerned with anti-social behaviour (LAA Place Survey)	Develop 3 additional capable guardian schemes in wards with high crime rates, to reduce anti social behaviour by Oct 2009.	Not on track (late)	A new post (funded out of SYP's budget) to implement this scheme has now been filled and the officer started work in August. Three areas have now been selected, and a model for deployment of the scheme is almost completed. Direction of travel remains positive and it is hoped that these schemes will be operational by end February 2010.
As above	We will reduce alcohol related crime in York	Limit hospital admissions caused by alcohol related illnesses to 1,675 per 100,000 population (LAA)	Continue a targeted underage alcohol sales test purchasing programme to February 2010.	Complete	Of the 9 test purchases undertaken in 2009/10 (in response to complaints) none have resulted in illegal sales. A small proactive targeted alcohol sales exercise was undertaken in December, using 14 and 15 year old volunteers. No illegal sales were recorded. Trading Standards Officers have now received the training to issue police fixed penalty notices for illegal sales of alcohol. Officer's have also visited and checked the retailers belonging to the responsible retailer scheme to ensure compliance (i.e. checked staff training records, records of refusals, shop signs etc.)
We aim to be clean and green, reducing our impact on the	We will reduce the environmental impacts of Council activities by making it as	* Recycle, reuse or compost 50% of household waste * Reduced CO2 emissions in the LA area per capita by	Complete the Groves recycling pilot by Sept 2009.	Complete	The Groves recycling project is now complete. The results of the trial have been published and have been helpful to us in deciding the methods to be used for the wider city roll out.

environment while maintaining York's special qualities and enabling the city and its communities to grow and thrive	easy as possible for residents to recycle, investing in new ways to avoid landfill methods and through the Carbon Management Programme (CMP)	at least 0.8 tonnes (12% reduction) (LAA) * Reduce Council's energy consumption in offices by 5% each year			
As above	As above	As above	Implement a wider rollout of kerbside recycling to 92% of properties by Mar 2010.	On track	The first phase of the city wide roll out is now well underway with the remaining Groves properties now receiving recycling and alternate week collections(AWC). This area of the Groves was not part of the original trial area. Work has started on introducing recycling and AWC to flats and communal areas across the city. The first recycling collections from flats took place in late July 2009 and all flats/communal areas will receive the new service by the end of December 2009. We will then begin to introduce recycling and AWC to terraced properties across the city between January and July 2010. Some properties have been brought forward in the project from October 2010 to December 2009 hence the reason for the extension to the current phase of the roll out
As above	We will improve the quality of the local environment and the condition of York's streets and public	Reduce by 40% the level of service requests reported about litter in the street	Complete an easy@york review of waste, neighbourhood pride and street environment services by Summer 09.	Not on track	This will be delayed as the easy@york programme has been widened and is now part of the MoreforYork programme. The blueprints have been agreed and work has resumed on the business process re-engineering. Technology implementation is now underway with the first tests expected during the second half of January 2010.

	spaces				
As above	As above	As above	Introduce new technological devices to improve the identification and removal of street litter by Sept 09.	Not on track	The mobile devices, and other technological solutions, were an integral part of the Easy @ York Phase 2 project. The easy@york programme has been widened and is now part of the MoreforYork programme. Technology implementation is now underway with the first tests expected during the second half of January 2010.
As above	As above	As above	Improve the working arrangements across neighbourhood services by Sept 09 to reduce the occurrence of litter left in the street as a result of refuse collections.	On track	NVQ training completed. New approaches to how we clean in 'high obstruction areas' such as terraced streets has been developed and is proving effective. The 2nd NPI195 survey showed a marked improvement in levels of litter and cleanliness overall. Level of cleanliness, customer complaints and missed bins are at an all time low – customer perception on (1) cleanliness, and on (2) the council working to make the area cleaner and greener, is highest of any Unitary. As part of the More For York process, a joint Waste / Neighbourhood Pride / MFY group is working to review all aspects of refuse collection and cleansing.

Table 5: Overall Assessment of 2009/10 Neighbourhood Services Directorate Plan – at end December

The 2009/10 Directorate Service Plan sets out 11 priorities. This table summarises performance against the actions and measures set out in that plan, and attempts to provide an overall rating of progress, and an overall assessment.

Priority	Traffic Light Actions	Traffic Light Measures	Overall rating ¹	Overall Assessment
Inclusive City 1 Support effective community engagement	1 green	1 green	100% (2/2)	NMU restructure completed. In the longer term the structure of the NMU remains an issue for the More for York programme to consider in light of area working. The measure NPI4 (LAA) was measured through Talkabout 33, and was stable rather than improving. However additional engagement work with young people and tenants and work on developing the ward committee cycle process should improve public perception by time of next Place Survey.
Safer City 2 Make York safe	5 green, 1 amber	4 green, 2 amber, 1 red	81% (10.5/13)	All key actions within the corporate strategy will complete by end of March 2010. Acquisitive crime and total crime trends positive,. 2 perception measures at amber – waiting for NPI17 to be calculated, 1 (NPI21) will not be measured this year.
Sustainable City 3 Waste management 4 Keep traffic moving 5 Improve local environmental quality 6 Improve our roads and pavements	9 green, 6 amber	13 green, 1 amber, 9 red	67% (25.5/38)	Easy@York delayed by More for York causing a number of actions at amber. Waste management figures NPI192 and 193 not improving. Missed bins and refuse complaints are off target. LEQ looking positive. 4 Parking targets currently at red.
Effective Organisation: Staffing 7 Organisational Culture 8 Health, safety and well-being 9 Fair pay structure	12 green	2 green, 6 amber, 5 red	68% (17/25)	Excellence in Everything programme has now delivered a set of action plans which will be embedded into existing systems to ensure ownership. 3 of 4 Accident figures are at red, although RIDDOR is at green. Sickness figure slightly worse than target although difficult to forecast.

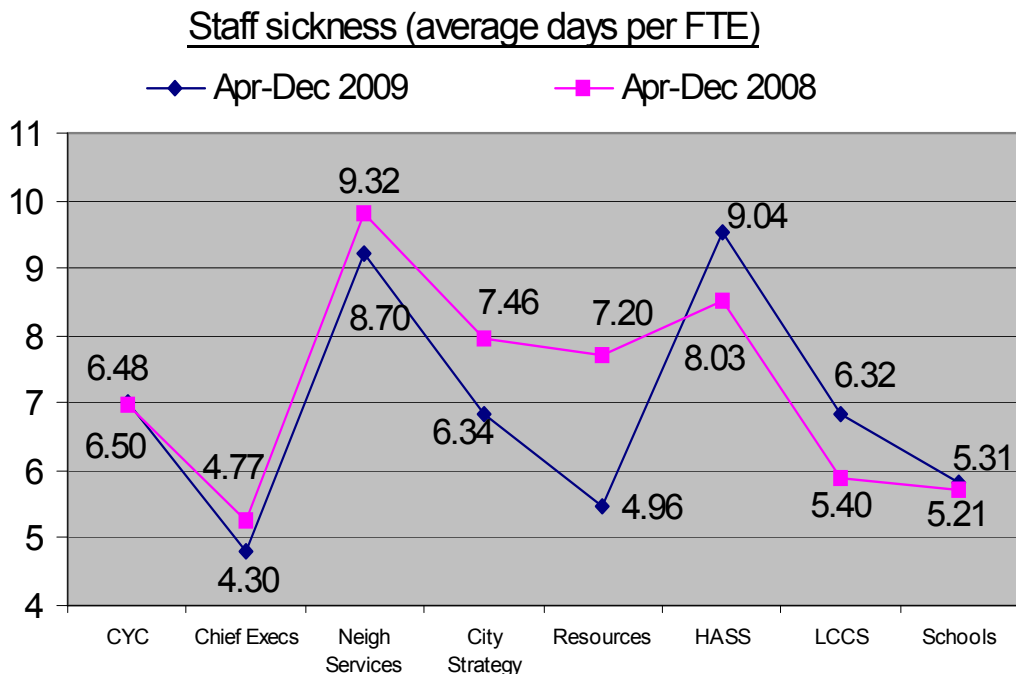
¹ On basis of simple calculation – 1 mark for green, 0.5 mark for amber, totalled, and then divided by the total number of actions/measures.

Effective Organisation: Staffing 10 Fairness and Inclusion	1 green, 3 amber	1 red	50% (2.5/5)	Progress on EIA programme, but need to push on with the remainder of the programme. This area will need to accelerate in 2010/11 and shift focus from process to outcome.	
Effective Organisation: Staffing 11 Financial Management	5 green	1 red	83% (5/6)	Actions within plan going well. Forecast overspend at 1.1% of budget.	
Overall Development Priorities	18 green 3 amber	3 green 6 amber 6 red	21 green 9 amber 6 red	71% (25.5/36)	[75% at Q2]
Overall Service Priorities	15 green 7 amber	18 green 3 amber 10 red	33 green 10 amber 10 red	72% (38/53)	[66% at Q2]
Overall All Priorities	33 green 10 amber	21 green 9 amber 16 red	54 green 19 amber 16 red	71% (63.5/89)	[70% at Q2]

Directorate Plan Performance: Organisational Development

- 35 The five OD priorities in the Directorate Plan are:
- Build a healthy organisational culture around staff and customers
 - Safeguard the health, safety and wellbeing of staff
 - Implement a fair pay structure
 - Build a strong culture of fairness and inclusion
 - Improve financial management and value for money

- 36 Key issues / progress to date includes:
- Excellence in Everything programme groups reported to DMT on 26th November. Staff showcase events were held on 15th and 16th December to provide further opportunities for staff to find out about the programme and feed in their comments and suggestions. We are now embedding the actions into plans for 2010/11. We are also looking for innovative ways to ensure that staff who have been engaged in the project to this point can maintain their involvement into the delivery phase. We will also look to recruit more members of staff to help deliver the programme during 2010/11.
 - Sickness absence is at 8.7 days per fte in the first three quarters. Forecasting is difficult but for the last few years the final quarter of the year has seen low level of sickness. So we can forecast a figure between 11 and 12 days per fte, against a target of 11 days. The outturn figure for last year was 11.25. The graph below compares NS with other directorates to end December.



- The number of days lost to stress related illness is forecast at 1.2 to 1.6 days per FTE against a target of 1.6 days. This is a slight improvement on last year's level.
- Staff PDR / Appraisals. Up to end December, 32% (275 of 870) PDRs had been completed. Heads of service have suggested that 93% (810 of 870) are likely to be completed by the end of the year. A detailed review of PDRs and the training matrix has been started.
- Accident figures up to end December suggest that RIDDOR accident figures are slightly better than in previous years (17 in first 9 months). We had no RIDDOR accidents during December. This is likely to hit target. The overall number of accidents reported has risen, and is likely to come in around 110-130 (93 last year). We have had 2 dangerous occurrences, and 3 major injuries so these targets will be missed.
- Equality Impact Assessments (EIAs). We can forecast a 75% figure on the EIA programme set out in the directorate equality scheme. 14 of the 16 EIAs in the scheme have been started but three that have started are unlikely to be completed before the end of the year. A small number of additional EIAs have been undertaken during the year.
- 1.1% overspend forecast to end November (£359k) just misses the target of +/-1% variance against budget. In response managers have been asked to freeze all unnecessary spending up to end March, and to continue to manage their budgets very closely to ensure that the forecasts being presented are as accurate as possible. In addition the exceptional winter maintenance costs incurred during the long cold spell in December and January have been set aside and are being accounted for outside the forecast figure.

Directorate Plan Performance: Service Priorities

37 The six service priorities in the 2009/10 Directorate plan are:

- Effective community engagement
- Making York safe
- Waste management
- Keeping traffic moving
- Improve local environmental quality
- Improve roads and pavements.

Directorate Plan: Inclusive City

38 The key outcome measure under this heading is a Place survey measure NPI 4: Percentage of people who feel they can influence decisions in their locality. In the 2008/09 Place Survey 31.7% agreed with the statement - which was a top quartile outturn and seventh highest among Unitary councils. This reflects the high profile work carried out through the Neighbourhood Management Unit and devolved budgeting to Ward Committees – recognised nationally as best practice by central government.

- 39 Talkabout 33 asked an identical question in October 2009. 36% of respondents agreed with the statement. Care must be taken in comparing the Talkabout survey result with the Place Survey result as the survey methods are different. However the 2009/10 figure is similar to the unweighted Place Survey result in 2008/9 (37.2% agreed), so we are treating this measure as stable. Capacity in the unit has been insufficient to facilitate a cross-corporate working group to work towards meeting the LAA target. However the Neighbourhood Services More for York work sets out a vision of enhanced neighbourhood and area-based working – of which the ward committees will form a part. This part of the blueprint is being led by the Head of Neighbourhood Management. An additional factor is the More for York organisational restructure which will bring street level services including Housing and Leisure services under a new Communities and Neighbourhood directorate. Adding this positive strategic direction of travel to practical engagement work going on with partners around young people and tenants, suggests that we can be confident of hitting the LAA target.

Directorate Plan: Sustainable City: Local Environmental Quality

- 40 Two service plan areas address local cleanliness: Neighbourhood Pride Service, and Street Environment and Enforcement Service. The main outcome measures for both services are NPI195a-d – which are measured by a survey of local cleanliness undertaken 3 times per year.
- 41 The second of this year's three NPI195a-d local cleanliness surveys was undertaken in October 2009. The survey results were very positive across all four elements. Table 6 below sets out the results, placing them in context over the past few years. The figures represent the proportion of survey sites where we found unacceptable levels of litter, detritus, graffiti and fly-posting.

Table 6: NPI195a-d results

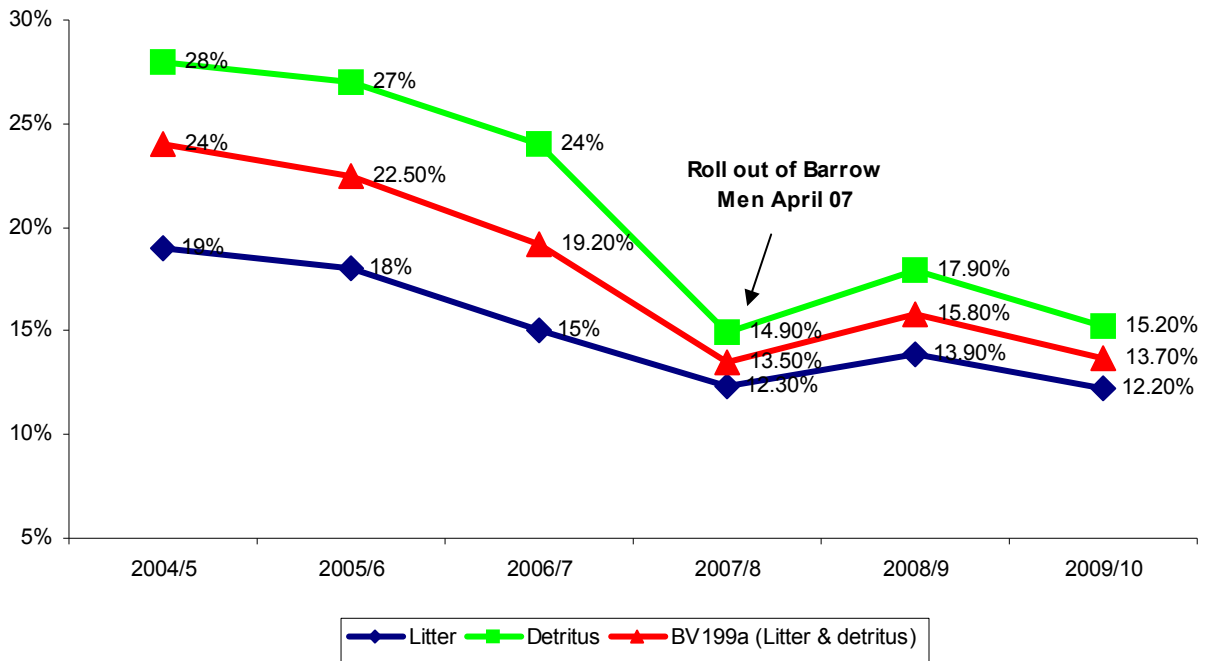
	Litter NPI195a	Detritus NPI195b	Graffiti NPI195c	Fly-posting NPI195d
2007/8	7.6%	8.9%	2.3%	0.3%
2008/9	8.9%	11.0%	4.7%%	1.1%
2009/10 performance (Survey 1)	4.5%	13.3%	2.6%	0%
2009/10 performance (Survey 2)	3.3%	4.0%	1.9%	0%
2009/10 (year to date)	3.9%	8.7%	2.3%	0%
2009/10 (forecast)	6.5%	9%	2.3%	0%
2009/10 target	7.5%	9%	4%	1%

- 42 The October 2009 survey results moved us back to the levels of litter and detritus recorded when barrowman working was introduced in mid 2007. Following the June 2009 survey, steps were taken to improve performance in areas where the survey was suggesting a problem, such as high density housing areas. In high density housing areas (terraced streets and other streets with lots of parked cars), we have moved resources from other areas to implement a second full clean each year, with residents being asked to move their cars to allow cleaning to take place. This is in addition to the street cleansing that goes on alongside the annual gulley clean, where a

traffic order is made. Initial findings are that this approach is proving successful, with a majority of residents happy to help by moving their cars.

- 43 The late winter /early spring NPI195 survey will be undertaken in February / March 2010. In previous years this has returned the worst survey result, largely due to weather impact on operations, so we remain cautious over the annual outturn. While the additional detritus cleaning will continue, the long cold spell has interrupted cleansing operations, and so we are now (mid January) considering how to return the city to the standard required. During the cold spell we spread over 1000 tonnes of grit on roads and pavements and this will take time to remove. Consideration is being given to whether additional resource is required to remove detritus spread, and where that resource could be taken from. At this point we are continuing to forecast that all the NPI 195 targets will be met.
- 44 Graffiti has returned to its long term trend level, after the blip we saw in mid 2008. Work on a number of education and enforcement initiatives such as the Taagy database, and close working with police appears to have brought the level of graffiti down, but we remain cautious as the measure is sensitive to a small number of people being able to cause significant damage in a short time period.
- 45 The level of fly-tipping seen in 2009/10 has reduced by nearly 40% - with fewer large fly-tips (lorries etc) having to be removed. Vacancies within the street environment team have been managed to ensure that enforcement on fly-tipping remains a priority – the level of enforcement work has been maintained. Four prosecutions have been achieved and these, coupled with significant work on publicity, will have impacted positively.
- 46 Compared to other council's, York's reported performance on NPI195 is poor – with NPI195a falling into the fourth quartile in 2008/9, and NPI195b in the third quartile. The service's view is that comparative data is flawed as different council's survey in different ways (Encams view our surveying results as accurate). However trend data allows us to compare cleanliness in York over time – the graph below shows BVPI199a (unacceptable levels of litter and detritus) going back to 2004/5. (The measure was altered when NPIs were introduced so we have converted NPI195 data back into BVPI199 data for this analysis).

BV199 Results Showing 9/10 Forecast



- 47 The other outcome measures for street cleanliness are customer perception measures from our Talkabout panel survey, and the Place Survey every 2 years (taken over from earlier ResOp surveys).
- 48 Overall residents appear satisfied with their local area – with 87.4% of respondents satisfied with their local area as a place to live (NPI5). This was fourth best result among 55 unitary councils.
- 49 The result for BVPI89 (% of people satisfied with the council 'keeping public land clear of litter and refuse') in 2009/10 was that 69% of respondents were satisfied, against a target of 75%. This figure is similar to the 67% reported in the Place Survey in 2008/9 and in earlier ResOp surveys. This question has not been asked previously in Talkabout surveys, so caution is needed as we are comparing figures across different survey types. That said, satisfaction appears stable at a level which equated to top unitary council in 2008/9.

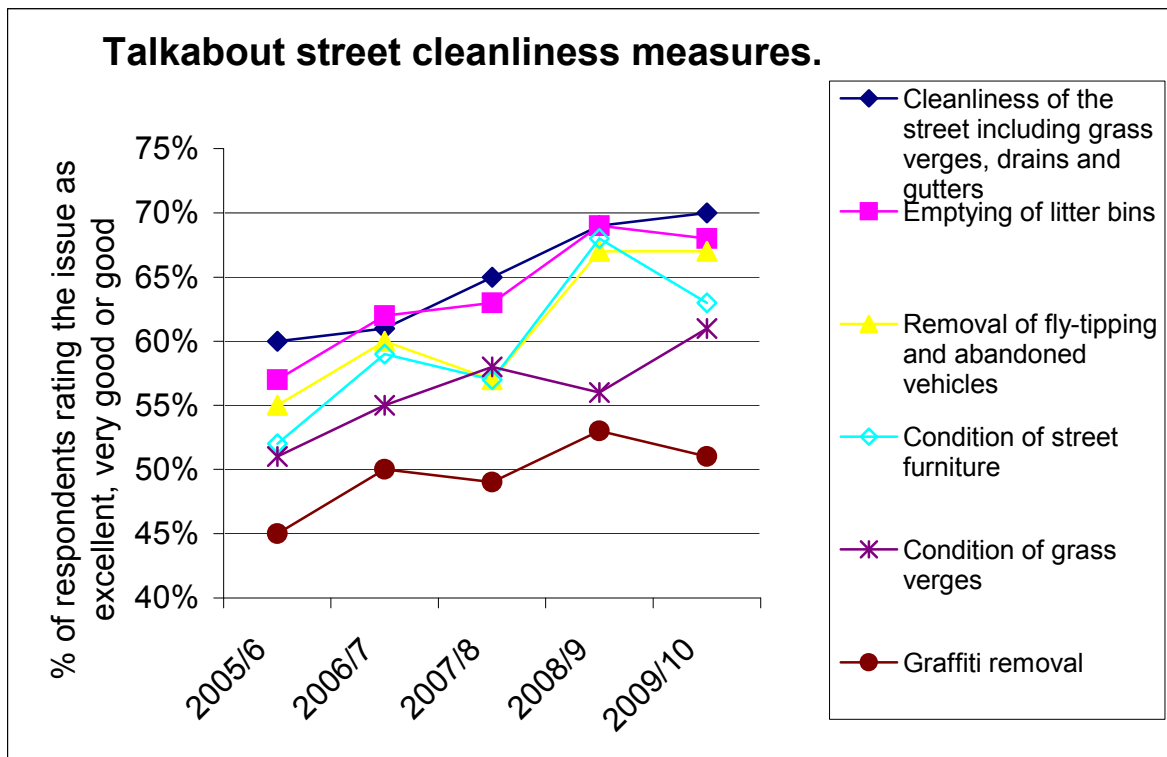
Table 7: Satisfaction with 'keeping public land clear of litter and refuse'.

2006/7 RESOP	2007/8 RESOP	2008/9 PLACE SURVEY	2009/10 TALKABOUT 33
71%	67%	67% (Top Unitary Council.)	69%

- 50 The 2008/09 place survey also saw York as the best performing unitary council in the proportion of people who agree that 'local public services are

working to make the area cleaner and greener'. 75% of respondents agreed with this statement – the best for any unitary council.

- 51 Talkabout 33 (October 2009) provides a range of perception measures around street level issues. While results fluctuate from year to year, the medium term trend is positive.



- 52 These services were all involved in the Easy @ York review work in 2008/09. We are now starting to implement improved systems through the YCC, and to test the implementation of mobile devices. These development will speed up our response to customers who report problems in the street, and will make it much easier for officers to report and deal with problems as they move about the city. The introduction of a work scheduling system will improve the efficiency of our response. While performance benchmarking is well advanced, there are very few cost benchmarking figures available – and work has started to identify a small number of similar authorities to try to gather some reliable cost benchmarking data. NPS is currently forecasting (at end of period 8) an overspend of £128k (4.9% of the net budget). SEES is forecasting a break even position.
- 53 Sickness levels in both services improved significantly in 2008/9 (NPS lost 8 days per fte, while SEES lost 10 days). In 2009/10 SEES is continuing to improve significantly, but NPS's sickness level will rise – but will remain below the 2007/8 figure of 16.9 days lost. Lots of work has been done on Health & Safety in both teams – to date NPS has had three RIDDOR reports this year, and SEES none.

Directorate Plan: Sustainable City: Waste Management

- 54 The main outcome measures under waste management are three NPIs (191-193). NPI191 (LAA – kgs of residual waste collected per household) is

forecast to drop from 629kg to 600kg in 09/10. This equates to a 5% improvement on 08/09 (following a 5% reduction in 08/09). The LAA target of 617kg will be easily beaten. Overall in 2009/10 we expect to collect 5900 tonnes less household waste, and 8090 tonnes less municipal waste.

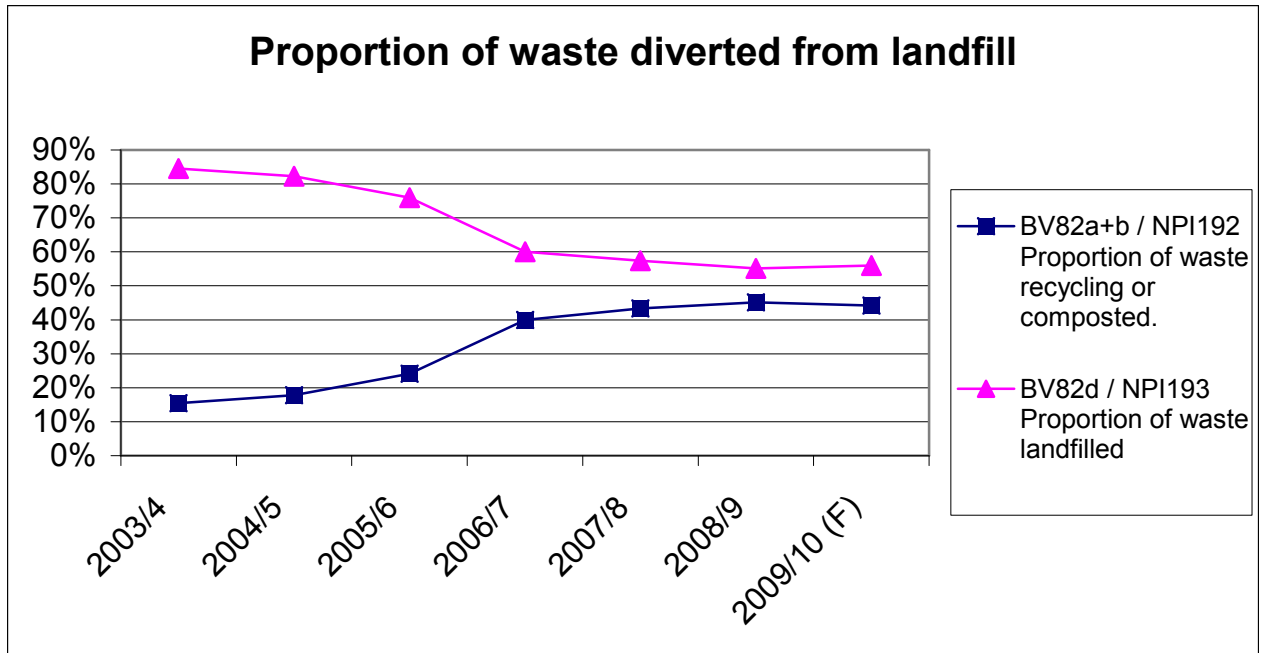
- 55 While collecting less waste is positive, the reduction has impacted on the two other waste management NPIs, which measure the proportion of waste recycled and reused, and landfilled. Both NPIs are forecast to deteriorate slightly in 08/09, and to miss their targets. For this reason, this issue was the subject of a pilot 'Challenge and Innovation Panel' in late January which considered ways of improving participation in recycling and composting.
- 56 NPI 192 – forecast that 44.22% of waste will be reused, recycled or composted against a target of 47.86%. We are likely to recycle, reuse or compost 3360 tonnes fewer this year. The recession has seen a shift in buying habits, which has reduced the amount of newspapers, magazines and drink bottles and cans coming through the recycling system.
- 57 NPI 193 – forecast that 56.02% of municipal waste will be landfilled, against a target of 52.62%. We will collect 8090 tonnes less this year than last, and landfill 3540 tonnes less than last year – hence the landfill rate will start to rise compared with last year.
- 58 The targets set for 2009/10, and the forecasts presented here take into account the beneficial effects of the extension of kerbside recycling to 92% of households by March 2010, and the impact of the HWRC permit scheme. But the targets did not predict the impact of the recession on the waste and recycling stream. For example the targets were based on an estimated 1800 additional households in York – but the forecasts here assume zero growth - (impacts on NPI191). The reversal of the long term rise in the recycling rate potentially overshadow the positive context of 6.1% less household waste being collected and 5.6% less waste being landfilled.

Table 8: Waste collection and diversion.

Tonnes of waste:	2008/09	2009/10 forecast	% change
Total household waste collected	96,720	90,840	-6.1%
Total household waste recycled - Kerbside collection down 8.4% - Bring sites down 14.6% - HWRCs down 8.9%	25,560	22,920	-10.3%
Total household waste composted - HWRCs down 19.8% - Kerbside collection up 0.4%	18,090	17,250	-4.6%
Total household waste recycled and composted	43,650	40,170	-8.0%
% of household waste recycled and composted (NPI192)	45.13%	44.22%	
Total municipal waste collected	113,780	105,690	-7.1%

Municipal waste landfilled	62,750	59,210	-5.6%
% of municipal waste landfilled (NPI193)	55.14%	56.02%	

59 The graph below shows the trend in recycling rates over time. The 2009/10 forecast shows a small reversal of a long running improvement.



60 While the recycling rates have stalled, customer satisfaction with the service offered in York has improved. Talkabout 33 updated a number of satisfaction measures relating to waste services. The result in October 2009 for refuse collection is the same as that recorded in the July 2005 survey – ie the last before the alternate collection system was implemented.

Table 10: Satisfaction with domestic waste collection services (Talkabout)

Respondents who were very or fairly satisfied with*:	2005/6 (3 surveys)	2006/7 (3 surveys)	2007/8 (3 surveys)	2008/9 (1 survey)	2009/10 (1 survey)
Refuse collection	78%	76%	78%	78%	86%
Doorstep recycling	76%	75%	80%	77%	83%

61 Caution is needed, as the Talkabout question was reworded in October 2009 to ask 'how satisfied' rather than 'how good or bad' is the service. The reason for this rewording was to allow comparison with the questions asked in the 2008/09 Place survey and previous ResOp surveys. The trend is shown below and also shows a continuing improvement in satisfaction with

domestic refuse collection since alternate weekly collection was implemented in 2005.

Table 11: Satisfaction with domestic waste collection services (ResOp)

Respondents who were very or fairly satisfied:	2005/6 Resop	2006/7 ResOp	2007/8 ResOp	2008/9 Place Survey	2009/10 Talkabout 33
Refuse collection	69%	72% no comp. data	75%	78.8% 2 nd quartile, UA ave 78.2%	86%
Doorstep recycling	Not asked	73% 3 rd quartile, UA ave 73%	74%	74% 2 nd quartile, UA ave 71.6%	83%

- 62 The waste service was involved in the Easy @ York review work in 2008/09. We are now starting to implement improved systems through the York Customer Centre, and to test the implementation of route optimisation software. The More for York programme is also seeking to invest in improved materials for collecting kerbside recyclate which will make the collection at the kerbside more efficient – and will improve the look of local streets on collection day. Work is also being done to consider how Waste and Neighbourhood Pride Services can work better together to reduce the level of dissatisfaction caused by spillages from the waste collection service – improved scheduling of barrowmen rounds will play a part in this.
- 63 Cost benchmarking is more advanced in waste services than in NPS, as this is a better defined area within CIPFA and so relatively robust comparative data is easier to find from previous BVPIs. The net annual cost of household waste collection per household in York was £43.95 in 2007/08, compared with an average of £50.52 for 12 comparator councils within the close neighbour group. The net annual cost of municipal waste disposal per tonne was £36.04 in 2007/08, compared with an average of £46.22 per tonne for 9 comparator councils within the close neighbour group. York also provides 1 HWRC for every 28000 households, compared with an average of 1 per 49000 households within the comparator group. These figures suggest that the service is highly competitive in cost terms with the Audit Commission's near neighbour councils.
- 64 The service is forecasting (at end of period 8) an overspend of £436k (4.7% of net budget). Paragraph 22 provides more detail.
- 65 Sickness levels are rising during 2009/10 (11.6 days lost per fte in the first 3 quarters, compared with a 2008/9 figure of 12.4 days lost. The service has undertaken NVQ training for all operatives in 2009/10, has undertaken a

number of equality impact assessments, and has invested in Health and Safety training - to date the service has had four RIDDOR reports this year.

Directorate Plan: Sustainable City: Waste Collection

- 66 Three key measures from the Directorate plan focus on the quality of service provided to residents and all three are stable at or around the performance level experienced last year, but two are behind the challenging targets set for them this year.
- Missed 39.3 bins per 100,000 collections to the end of December – against a target of 35, and a 2008/09 figure of 41.3. This equates to 1303 collections out of 3,307,630 collections in the first nine months of the year.
 - Put 98.4% of missed bins right by the end of the next working day, against a target of 98%, and 2008/09 figure of 96.9%.
 - Received 48.4 CRM system complaints per month in the 9 months to end December. This is against a target of 40 per month, and a 2008/09 figure of 48.3.
- 67 The bad weather in December adversely effected all of these figures. January will be worse as it proved impossible to collect from all streets in the snow – with collections suspended on one day when conditions were deemed too dangerous. The service took a proactive approach to switching to weekly grey bin collections only for all properties until end January. We hope that this will have mitigated problems caused to householders – which should limit the number of complaints that we are likely to receive.

Directorate Plan: Sustainable City: Parking Services

- 68 Four of five parking indicators in the directorate plan will not be meet their targets. These relate to the proportion of PCNs that are challenged / rescinded. These targets were set on the basis of a review of policies as part of a full review of the service under the easy project, but now appear unlikely to be met. With hindsight these targets were too stretching. Experience now suggests that it will take a number of years to challenge the culture of customers appealing against PCNs – so even if the service review had been completed early the targets were unlikely to be met.
- 69 A service review has now started as part of the implementation work on the NS More for York blueprint. In the meantime, customer care training has been undertaken for staff, customer perception measurement has been put in place, and changes to the PCN paperwork has been put in place – we now provide a photograph on each PCN to try to dissuade customers from appealing. However the front line service continues to be affected by Pay & Grading issues, and continues to require careful management. Table 12 sets out the 5 key performance measures:

Table 12: Parking Services indicators

Measure	2008/09 performance	2009/10 target	2009/10 forecast performance

PS5: % of parking hotline calls responded to within 45 minutes	77%	80%	80%
PS6: % of objections received from the issue of PCNs	26.2%	20%	26.6%
PS7: % of objections against PCNs that are accepted	14.4%	10%	15.6%
PS8: % of PCNs that result in successful appeals to the Traffic Penalty tribunal	0.02%	0%	0.03%
PS9: % of PCNs cancelled due to council policy	11.2%	10%	13.7%

Directorate Plan: Sustainable City: Highways Maintenance

- 70 All three highways indicators within the directorate plan are on target. Two relate to the time taken to inspect and repair the carriageway, while the third relates to street lights.

Table 13: Highways Maintenance indicators.

Measure	2008/09 performance	2009/10 target	2009/10 forecast performance
G14: Number of highway inspections completed within 4 working days	98.6%	98%	99.1%
G15: % of emergency highway work carried out within 24 hours of go ahead instruction.	98.9%%	97%	97.8%
COL33: % of streetlamps not working as planned% of objections against PCNs that are accepted	0.8%	<1%	0.9%

- 71 We said that we would bring an initial report on integration of the client and contractor functions to members by July 2009. Uncertainty over the More for York organisational review delayed this action. The decision to retain separate highways functions within the new City Strategy and Communities & Neighbourhoods directorates means that the service can now go ahead with a service review on a more limited scope to put in place more efficient working methods, and to tie the service more closely into York Customer Centre systems. This is all ongoing within the NS More for York implementation work.
- 72 Recent weather has put pressure on the service, and on customers (drivers, cyclists and pedestrians) across the city, and has caused significant debate in the press. A number of internal and public reviews of winter maintenance

policies and how those policies were implemented are now going on – the Community Safety Overview and Scrutiny committee has decided to undertake a review of winter maintenance. For the record the service worked flat out from mid December through to mid January, spreading 4300 tonnes of rock salt and over 1000 tonnes of grit on York's pavements and footpaths. In addition to the policy requirements, we added additional areas to the gritting schedule in response to requests from members of the public and councillors. From 1st December to 7th January we received 622 service requests about snow/ice/gritting/salt bins. In the same time we received 40 negative pieces of feedback and complaints via YCC.

- 73 With the snow gone, additional resource is being focused onto roads and pavements – with an additional maintenance gang in place up to the end of March 2010. We are currently estimating the likely additional maintenance costs that we will face due to the additional damage caused during the period of severe weather. The council has applied to central government for additional funding through the Bellwin scheme.

Consultation

- 74 The report is primarily an information report and therefore no consultation has been undertaken regarding its contents.

Options

- 75 The report is primarily an information report.

Corporate Priorities

- 76 Neighbourhood Services supports delivery of the Inclusive City, Sustainable City and Safer City themes from the corporate strategy.

Implications

Financial

- 77 Financial implications are included in the body of the report.

Human Resources

- 78 There are no significant human resources implications.

Equalities

- 79 There are no significant equalities implications.

Legal

- 80 There are no significant legal implications.

Crime and Disorder

- 81 There are no significant crime and disorder implications.

Information Technology

- 82 There are no significant Information Technology implications.

Property

83 There are no significant property implications.

Risk Management

84 In compliance with the council's risk management strategy, there are no risks associated with the recommendations of this report.

Recommendations

85 That the Executive Member notes the performance update set out in the paper.

Reason – In accordance with budgetary and performance monitoring procedures.

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Chief Officer Responsible for the report:

Sally Burns
Director of Neighbourhood Services

Report Approved



Date 1st February
2010

Specialist Implications Officers

Financial: None, **Human Resources:** None, **Equalities:** None, **Legal:** None
Crime and Disorder: None, **Information Technology:** None
Property: None, **Risk Management:** None

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

All

For further information please contact the author of the report

Background Papers:

Neighbourhood Services Directorate Plan 2009/10
Neighbourhood Services Budget Monitoring 2009/10

Annexes:

Annex A – Progress against “Recovery Plan”

Neighbourhood Services

Saving Target £460k

Annex A

Action	Description	Saving	Risk
Review of Highways Maintenance projects		£210k	
Underspend on purchase of waste bins		£100k	
Close Coppergate Toilets	Cessation of income at Coppergate Toilets and removal of attendant.	£10k	
Review Bin Emptying Policy	Review of frequency of weekend out of town litter bin emptying.	£10k	
	Total Identified	£330k	

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**Executive Member Decision Session
– Neighbourhoods**

16th February 2010

Report of the Director of Neighbourhood Services

CONTAMINATED LAND UPDATE

Summary

1. The purpose of this report is to seek approval by the Executive Member for the adoption and publication of an updated contaminated land strategy.
2. The report also provides an update on the outcome of the recent contaminated land grant applications made to the Department for Environment, Food and Rural Affairs (DEFRA). Two bids were made to DEFRA under the Capital Grant Scheme in relation to the council's ongoing contaminated land work.

Contaminated Land Strategy – 2010

3. Part 2A of the Environmental Protection Act 1990 requires local authorities to investigate their areas for contaminated land. If contamination is found, then remediation (clean-up) works will be secured to protect human health and the environment.
4. All councils must outline their approach to the identification of contaminated land in a written strategy. City of York Council's initial contaminated land strategy was published in July 2001, followed by an update and review document in February 2005.
5. A complete review of City of York Council's contaminated land strategy was undertaken in January 2010, to incorporate a number of recent changes in contaminated land legislation and guidance e.g. The Contaminated Land (England) Regulations 2006 and DEFRA Circular 01/2006.
6. The strategy explains how the council's environmental protection unit will inspect the city for contaminated land, manage the information generated, assess all sites which could potentially fall under the definition of contaminated land and secure remediation. The strategy also includes information on timescales and progress made since 2001.
7. It is a requirement that the strategy be kept under periodic review. It is intended to update and republish the strategy every three years, as the Yorkshire and Humberside Pollution Advisory Council (YAHPAC) consider this to be an appropriate review period.

8. Following approval by the Executive Member, the revised contaminated land strategy will be published and reviewed every three years thereafter.
9. The published strategy will be available to download from the City of York Council website and paper copies will be held at reception (9 St Leonard's Place) and at York Central Library.

Contaminated Land Grants

10. Local Authorities must investigate potentially contaminated sites within their district to assess whether land contamination is present. The government supports local authorities' capital expenditure for contaminated land through the DEFRA Capital Grant Scheme.
11. Previous contaminated land grants have funded the investigations of closed landfill sites at Fulford Cross, Nun Ings, Huntington Road, Fifth Avenue and Water End.
12. In July 2009 officers submitted two bids for DEFRA to support the council's contaminated land work during 2009/2010. The amounts bid for were:

Investigation of a closed landfill site at Chapman's Pond (off Moor Lane)	= £24,000
Investigation of a closed landfill site behind Westfield School (off Askham Lane)	= £27,000

13. On 14th October, DEFRA confirmed that the following amounts had been allocated to City of York Council:

2009/2010	
Investigation of a closed landfill site at Chapman's Pond	= £21,500
Investigation of a closed landfill site behind Westfield School	= £24,500

2010/2011	
Investigation of a closed landfill site at Chapman's Pond	= £2,500
Investigation of a closed landfill site behind Westfield School	= £2,500

Please note that if any of the grant money allocated to 2009/2010 is not spent, it can be carried over to 2010/2011.

14. On 20th November 2009, we invited quotations from a number of specialist consultants to undertake the site investigation and risk assessment of Chapman's Pond and the land behind Westfield School. The quotations were evaluated and a successful consultant was selected.

15. Site investigation works are scheduled to commence at both sites in February 2010. The investigation works will incorporate soil sampling, water sampling and ground-gas monitoring. The results will then be assessed to determine if either site falls under the legal definition of contaminated land.

Consultation

16. Copies of the draft contaminated land strategy have been sent to:

City of York Council Planning Department
DEFRA
East Riding of Yorkshire Council
English Heritage
Environment Agency
Food Standards Agency
Hambleton District Council
Harrogate Borough Council
Health Protection Agency
Natural England
Ryedale District Council
Selby District Council

17. All comments received to date have been incorporated into the document where appropriate. Comments received prior to publication will also be incorporated as appropriate.

Options

18. (a) To approve the contaminated land strategy and to undertake a review every three years.
- (b) To reject the contaminated land strategy.

Analysis

19. Option (a) will allow the council to update its contaminated land strategy and to continue its programmed inspection of potentially contaminated sites.
20. Options (b) would prevent the council progressing with its contaminated land work. Failure to investigate potentially contaminated sites (and secure clean-up as necessary) could mean that contamination remains in the ground and continues to present a risk to human health and the environment.

Corporate Priorities

21. We aim to protect people, property and the environment from contaminants in the ground and encourage the brownfield regeneration of contaminated sites. The council's contaminated land work contributes towards our corporate priorities of a thriving, sustainable and healthy city.

Financial Implications

22. There are no financial implications.

Human Resources

23. There are no human resource implications.

Equalities

24. There are no equalities implications.

Legal Implications

25. The council has a statutory duty to inspect its area for contaminated land. If contaminated land is found, the council must secure remediation to protect human health and the environment.

26. The council must ensure that the contaminated land strategy is kept under periodic review.

Crime and Disorder

27. There are no crime and disorder implications.

Information Technology (IT)

28. There are no IT implications.

Risk Management

29. In compliance with the council's risk management strategy. There are no major risks associated with the recommendations of this report.

Recommendations

30. We advise the executive member that:

Option (a) at paragraph 18 should be accepted - to approve the updated contaminated land strategy and to undertake a review every three years.

Reason: The updated contaminated land strategy fulfils the council's regulatory requirement to periodically review its strategy. It allows the council to continue its programmed inspection of potentially contaminated sites and make progress on corporate priorities of a thriving, sustainable and healthy city.

Options (b) should be rejected

Reason: Rejection of the contaminated land strategy would prevent the council's progress on contaminated land. The council would fail to meet its regulatory duty to keep the strategy under periodic review.

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Report Approved **Date** 19/01/2010

Wards Affected:

All

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Background Papers:

Contaminated Land Strategy, July 2001

Executive Member for Environment and Sustainability and Advisory Panel, July 2001

Review of the Contaminated Land Strategy, February 2005

Executive Member for Environment and Sustainability and Advisory Panel, February 2005

Annexes:

Draft Contaminated Land Strategy, January 2010 – **Available online and hard copy on request.**

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Contaminated Land Strategy

Adopted July 2001
Revised January 2010

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1 EXECUTIVE SUMMARY

City of York Council is responsible for the enforcement of contaminated land legislation in the city. We aim to protect people, property and the environment from contaminants in the ground and encourage the brownfield regeneration of contaminated sites. The council's contaminated land work contributes towards our corporate priorities of a thriving, sustainable and healthy city.

The council's environmental protection unit will inspect the whole of the city for contaminated land, and will take action to prevent harm from occurring. It is government policy to ensure that the polluter pays, and we have powers to require polluters to clean-up contaminated land that may cause harm or water pollution.

Contaminated land and the law controlling it are complicated issues. Identifying contaminated land is a technically demanding process, and a great deal of information is generated. One of our responsibilities is to ensure that the contaminated land inspection process is carried out in a rational and efficient manner. It is also necessary to show that resources will be allocated to tackling the most serious problems first.

This strategy explains how we will go about inspecting the city for contaminated land, and how we will manage the information that we generate. The strategy also includes information on timescales and progress made to date.

Note: The council's original contaminated land strategy was published in July 2001, followed by an update and review document published in February 2005. There have been many changes in contaminated land legislation and guidance over the last few years, so a complete review of the strategy was undertaken in January 2010.

2 INTRODUCTION

2.1 Regulatory Context

The law on contaminated land is made under Part 2A of the Environmental Protection Act 1990 [1] and is commonly referred to as 'Part 2A'. Part 2A came into force on 1st April 2000, following the enactment of section 57 of the Environment Act 1995 and the Contaminated Land (England) Regulations 2000. These Regulations were replaced in 2006 by The Contaminated Land (England) Regulations 2006 [2], to include land that is contaminated by virtue of radioactivity.

Part 2A was introduced specifically to address the historical legacy of contaminated land. Its intended role is to enable the identification and clean-up of land on which contamination is causing unacceptable risks to human health or the wider environment, or lasting exposure to radiation where action is likely to be justified.

2.2 Definition of Contaminated Land

Section 78A (2) of Part 2A defines contaminated land as:

“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that –

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or**
- (b) pollution of controlled waters is being, or is likely to be, caused.”**

However if harm is due to radioactivity, regulation 5(1) of The Radioactive Contaminated Land (Modification of Enactments) (England) Regulations 2006 define contaminated land as:

“any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that –

- a) harm is being caused; or**
- b) there is a significant possibility of harm being caused”.**

Statutory Guidance (Circular 01/2006) has been produced by the Department for Environment, Food and Rural Affairs (DEFRA) [3] to outline how the regulations are expected to work and to give guidance on specific terms e.g. significant harm. Subsequent non-statutory guidance on the legal definition of contaminated land [4], published in July 2008, provides DEFRA’s view on how local authorities should interpret a significant possibility of significant harm.

For land to meet the statutory definition of contaminated land there must be a significant pollutant linkage, which consists of a source, a pathway and a receptor.

- ◆ A **SOURCE**: the physical presence of a contaminant in, on or under the ground, in quantities large enough to be a potential hazard.
- ◆ A **PATHWAY**: a means by which the source can come into contact with something or someone that could be harmed.
- ◆ A **RECEPTOR**: something or someone that could be harmed by the contamination – for example a person using the land, a stream close to the land, or a building built on the land.

If a source, a pathway and a receptor are all present then the risk of significant harm, harm attributable to radioactivity, or water pollution should be

assessed. If the statutory definition given above appears to be met then the land will be classified as contaminated land.

2.3 The Role of City of York Council under Part 2A

Part 2A identifies local authorities as the main regulating body for contaminated land. Under this role the council is responsible for a number of tasks, including;

- ◆ Development of a strategy detailing how we intend to implement Part 2A, its aims, objectives and interactions;
- ◆ Identification and assessment of sites which could potentially fall under the definition of contaminated land, as detailed in Part 2A;
- ◆ Identification of sites where we may be the appropriate person;
- ◆ Identification of potential special sites and relevant consultation with the Environment Agency;
- ◆ Initial assessment of the condition of the sites suspected to be contaminated;
- ◆ Further investigation of sites suspected to be contaminated;
- ◆ Regulation of all sites identified as contaminated land under the definition within Part 2A, excluding special sites;
- ◆ Remediation of sites or the serving of remediation notices, as and when necessary;
- ◆ To determine responsibility and apportion costs for remediation;

- ◆ To produce and maintain a public register of sites determined as contaminated under Part 2A.

2.4 The Role of the Environment Agency under Part 2A

The Environment Agency has the below responsibilities in regulating contaminated land;

- ◆ To assist local authorities in investigating contaminated land;
- ◆ To provide site specific guidance to local authorities regarding contaminated land, particularly where water pollution is involved;
- ◆ To act as the enforcing authority when a site is designated as a special site. Note: For contamination land to be classified as a special site it must meet the definition described in The Contaminated Land (England) Regulations 2006 [2], which is outlined in appendix C of this strategy.
- ◆ To prepare national reports on the state of contaminated land in England and technical guidance as necessary.

2.5 Interaction with Other Regulatory Regimes

Part 2A has been designed to operate alongside and compliment several other pieces of legislation. Part 2A, will not be used where existing legislation may be enforced, providing this legislation adequately deals with the issues of contaminated land, or where the contamination has arisen due to a breach of an existing licence or permit.

2.5.1 Planning and Development Control

Contaminated land, or the possibility of it, is a material planning consideration under the Town and Country Planning Act 1990. The council must therefore consider the potential implications of contamination, both when it is developing plans and when it is considering individual applications for planning permission.

Contaminated land issues that arise through planning applications will be controlled through the planning regime inline with Planning Policy Statement 23 (PPS23), Annex 2 - Development on Land Affected by Contamination [5]. PPS23 gives detailed guidance on the development of land which may have been affected by contamination, and also provides local authorities with the opportunity to require that land contamination is assessed and, if necessary remediated, as a condition of planning permission. The Yorkshire and Humberside Pollution Advisory Council (YAHPAC) has published technical guidance regarding the development on land affected by contamination [6].

Since the launch of PPS23 many sites that were identified as potentially contaminated have received planning permission for redevelopment. These sites have been assessed and where necessary remediated by the developer at no cost to the council.

In addition to the planning system, building regulations (made under the Building Act 1984) require developers to take measures to protect new buildings and their future residents from the effects of contamination. An example of this would be the installation of gas protection measures into properties.

Officers from the environmental protection unit work closely with the council's development control and building control teams to ensure that issues of land contamination are dealt with effectively by the developer to ensure that land is suitable for its intended use.

2.5.2 Pollution of Controlled Waters

The Environment Agency has powers to take action to remedy or prevent pollution of controlled waters. Powers are available to the Environment Agency under the Water Resources Act 1991, the Water Framework Directive and the Groundwater Regulations.

Where pollution of controlled waters arises from substances in, on, or under land there is an overlap between these powers and Part 2A. Therefore in cases where contaminated land is affecting controlled waters, the council will work closely with the Environment Agency.

2.5.3 Waste Management

All waste disposal and processing sites should be subject to licensing under Part 2 of the Environmental Protection Act 1990 (as amended by the Environmental Permitting (England and Wales) Regulations 2007).

Contamination causing significant harm or pollution of controlled waters should be dealt with as a breach of a condition of the licence or permit rather than through Part 2A.

Where a waste site has been unlicensed or where the waste licence has been surrendered under the Control of Pollution Act 1974 regime, sites could potentially be contaminated land and would be dealt with under Part 2A.

2.5.4 Pollution Prevention and Control

The regime introduced by the Pollution Prevention Control Act 1999 (PPC) and the Environmental Permitting (England and Wales) Regulations 2007, control certain industrial activities prescribed under the regulations with the aim of preventing pollution from arising. This regime is enforced by either the council or the Environment Agency, depending on the process type.

Any pollution resulting from a permitted activity should be dealt with as a breach of a condition of the permit by the enforcing authority, rather than

through Part 2A. However, Part 2A may be used for old installations/activities which do not hold current permits.

2.5.5 Environmental Damage Regulations

The Environmental Damage Regulations (Prevention and Remediation) (England) 2009 are based on the 'polluter pays principle' so those responsible are required to prevent and remedy environmental damage. Environmental damage has a specific meaning in the regulations, covering only the most serious cases where there is an imminent threat or actual damage is occurring. When imminent threats or damage fall within the regulations, these regulations should be applied. Other provisions (such as Part 2A) remain in place to address damage outside of the regulations.

The Environmental Damage Regulations are enforced by local authorities, the Environment Agency, Natural England and the Marine and Fisheries Agency.

3 AIMS AND OBJECTIVES

3.1 Aims

It is envisaged that this strategy will help the council to improve and protect the condition of the environment and the health of residents in York.

The role of the strategy is to detail how contaminated land will be considered under the Part 2A definition of contaminated land. The strategy details how the council's Part 2A responsibilities have been prioritised, with justifications for these decisions.

The strategy will not include the regeneration and development of sites where planning permission has been, or is currently being sought, as contaminated land issues can be governed by the enforcement of appropriate planning conditions. However, developments built prior to the 1st April 2000 on potentially contaminated land will be included in the inspection programme, to ensure that the condition of the land is suitable for its current use.

The statutory guidance [3] details the underlying principles that should be applied when developing a contaminated land strategy, which include;

- ◆ be rational, ordered and efficient;
- ◆ be proportionate to the seriousness of any actual or potential risk;
- ◆ seek to ensure that the most pressing and serious problems are located first;
- ◆ ensure that resources are concentrated on investigating areas where the authority is most likely to identify contaminated land; and

- ◆ ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

3.2 Objectives

To ensure the requirements of the statutory guidance [3] are met, the contaminated land strategy has several key objectives;

- ◆ to meet the requirements placed on the council to produce a strategy for the implementation of Part 2A;
- ◆ to document how the council intends to meet the criteria of the statutory guidance;
- ◆ to provide a framework for the identification, prioritisation, assessment, determination and remediation of contaminated land and to subsequently reduce the risks posed to human health and the environment;
- ◆ to provide information to the Environment Agency for the national report on contaminated land;
- ◆ to put into practice the 'suitable for use' and 'polluter pays' principles to ensure suitable remediation is carried out on all necessary sites;
- ◆ to provide a greater understanding for the need to investigate and remediate contaminated land;
- ◆ to improve internal and external communications with regard to contaminated land; and

- ◆ to inform land owners, the general public and stakeholders of the council's intentions in relation to contaminated land by the publication of this strategy document.

4 THE CITY OF YORK

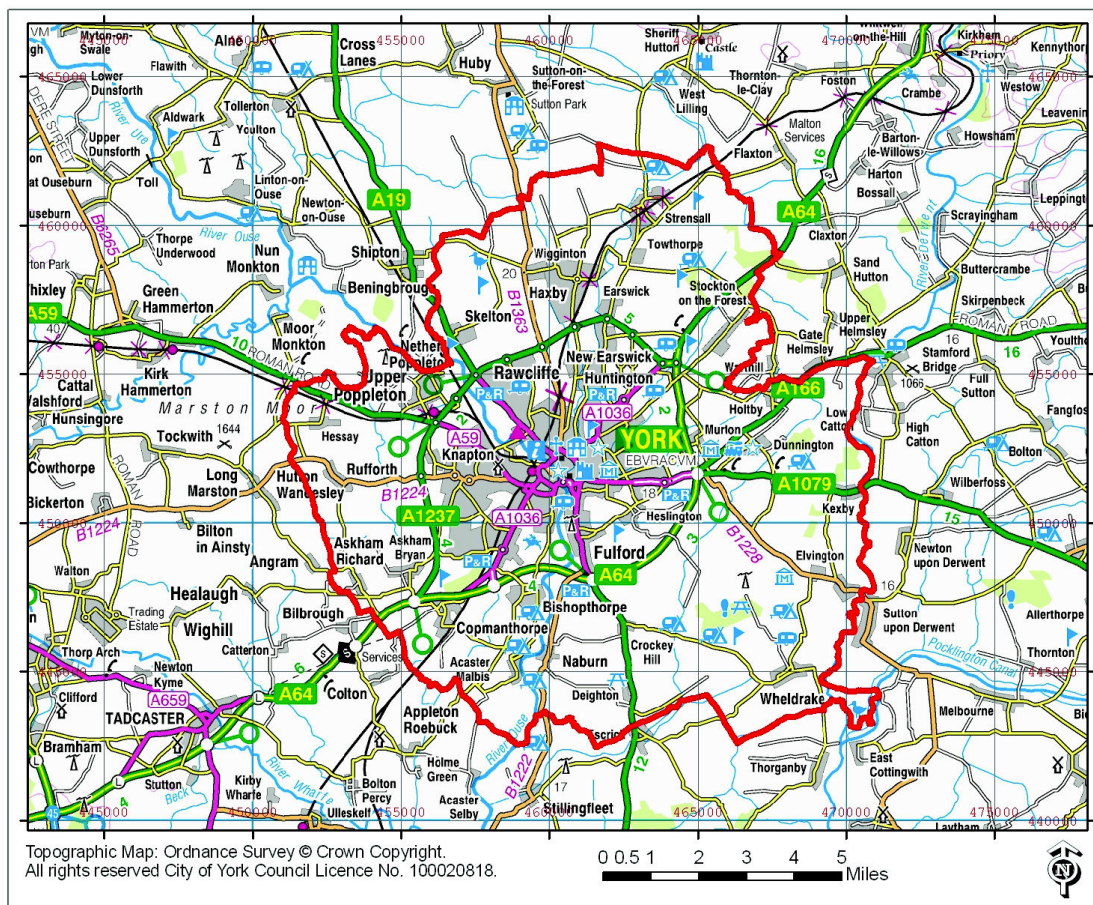
4.1 Characteristics of the Area

The City of York lies in the centre of the vale of York, approximately 30 miles north east of Leeds and 50 miles inland from the east coast.

York is one of England's most historic cities, with a diverse history that can be traced back nearly 2,000 years. It is a compact walled city dominated by York Minster (the largest gothic cathedral in Northern Europe). The city attracts more than four million visitors each year due to its wide range of world-class attractions, museums and galleries.

Today, the City of York Council area covers approximately 105 square miles (272 square kilometres) and has a population of around 195,400. The majority of the population resides within the urban area, with the remaining being located in the numerous villages surrounding the city (see figure 4.1).

Figure 4.1: Map showing the boundary of the City of York Council area



4.2 Current and Past Industrial Activities

Contamination can arise from a wide variety of processes and activities associated with industry and its development and growth. The industrial history of an area can therefore provide an unparalleled insight into the areas that might contain and be affected by contamination.

The City of York has had a long and varied history, evident from the many historical buildings and monuments that remain today. In the middle ages, York was an important port and manufacturing centre for wool, leather and other crafts.

By the 17th century the textile industry and port activity had declined and by the 18th century York was more like a market town than an industrial centre,

with a diverse range of small crafts such as brewers, bakers, tailors, jewellers, shoe makers, coopers, pipe makers and butchers.

The railways came to York in 1839, bringing the industrial age with them. The railway carriage works became a major employer (of over 5,000 people) and by the late 19th century other industries, such as confectionary, flour milling and the manufacture of optical instruments, had also come to York.

During the 20th century confectionary was a big industry in York, with Rowntree's Cocoa Works and Terry's Confectionary Works both manufacturing within the city. Printing, sugar production and the manufacture of railway carriages and optical instruments were also important industries during this period.

Over the last 20 years, much of the major manufacturing industry has declined in York. Today the city largely relies on the service sector and science based employment.

4.3 Historic Buildings and Ancient Monuments

Buildings, property, ancient monuments and important archaeological sites are all classified as receptors that should be protected under Part 2A.

The City of York is an important area for archaeology and is one of only five historical centres in England to be designated as an area of archaeological importance. York has about 1,800 listed buildings and structures and 22 scheduled ancient monuments. We will liaise with the council's principle archaeologist and English Heritage, prior to undertaking intrusive investigations and remediation works in the vicinity of these sites.

4.4 Geology

Geology is the study of the structure of rocks, minerals and soils in specific geographical areas. The City of York is covered by the 1:50,000 British Geological Survey maps, sheet numbers 62, 63, 70 and 71. These maps show that the bedrock in the area is Sherwood Sandstone.

The superficial deposits overlying the sandstone consist predominantly of sands and gravels with some areas of clay and till. Bands of alluvium deposits can also be seen to intersect the city along the paths of the River Ouse and River Foss.

Sands and gravels, till and alluvium are deposits with a variable permeability and can be considered to provide a potential pathway to the underlying sandstone. Clay deposits across the city are of varying thickness and can be considered to have a relatively low permeability and may in some circumstance provide protection to the underlying sandstone, however this should not be assumed without justification.

4.5 Hydrology and Hydrogeology

Hydrology is the study of the occurrence, distribution, movement and properties of all waters on the earth's surface and in its atmosphere.

The City of York has two main surface watercourses, which are the River Ouse and the River Foss. The Environment Agency classifies the water quality of the River Ouse as 'good' and the River Foss as 'fair'.

Hydrogeology is the study of water movement through rock beneath the earth's surface. Water beneath the earth's surface is called groundwater and its vulnerability is classified based on the characteristics of the water-bearing rock (aquifer). The three aquifer classifications are; major aquifers, minor aquifers and non-aquifers.

Major aquifers are highly permeable formations usually with a known or probable presence of significant fracturing. They may be highly productive and able to support large abstractions for public supply and other purposes.

Minor aquifers can be fractured or potentially fractured rocks that do not have a high primary permeability, or other formations of variable permeability including unconsolidated deposits. Although seldom producing large quantities of water they are important for local supplies and in supplying base flow to rivers. Major aquifers may occur below a minor aquifer.

Non-aquifers are generally those formations that are regarded as containing insignificant quantities of groundwater. Groundwater flow through such rocks does however take place and should be considered in assessing the risk associated with persistent pollutants. Major or minor aquifers may occur beneath non-aquifers.

The City of York is covered by sheet 12 of the 1:100,000 groundwater vulnerability maps, produced by the Environment Agency (formerly the National Rivers Authority). The map identifies the local area as either minor aquifer or non-aquifer, based on the superficial deposits. However, the underlying bedrock in the area is Sherwood Sandstone, which is classified as a major aquifer. For this reason, the Environment Agency treats the whole area as a major aquifer during considerations for work/abstraction requests.

Please note that the thickness and permeability of the superficial and bedrock geology varies across the York area and detailed investigations should be undertaken on a site-specific basis when embarking on site investigations.

4.6 Ecological Systems

Part 2A enables local authorities to take action to prevent significant harm to sites of ecological importance. The legislation only recognises protected locations as receptors if they are included in table A of annex 3 of the

statutory guidance [3], these are summarised in appendix B. Such statutory protected sites include sites of special scientific interest (SSSI), national nature reserves and special areas of conservation.

A number of areas of ecological importance are present in York, these include 9 SSSI's, three special areas of conservation, a national nature reserve and a special protection area - further details of these can be found in Table 4.1.

Table 4.1 – Main Areas of Ecological Importance in York

Site Name	Grid Reference	Designation	Characteristic
Derwent Valley	SE678287 - 825757	- SSSI - Special Area of Conservation - National Nature Reserve - Special Protection Area	Represents classic river profile
Derwent Ings	SE703466 - 703347	- SSSI - Special Area of Conservation	Neutral alluvial flood meadows, fen & swamp communities, with freshwater habitats
Fulford Ings	SE608491	- SSSI	Flood plain mire located on low lying land
Church Ings	SE594456	- SSSI	Two unimproved alluvial flood meadows
Naburn Marsh	SE600479	- SSSI	Flood meadows
Acaster South Ings	SE594437	- SSSI	Two alluvial flood meadows
Askham Bog	SE570480	- SSSI	Remnant of valley mire
Heslington	SE638475	- SSSI	Important tall herb fen

Tillmire			plant communities, with marshy grassland and associated breeding birds
Strensall Common	SE650600	- SSSI - Special Area of Conservation	Acidic lowland heath

A number of wildlife sites have also been designated by the council. The council's planning and sustainable development team identified these sites through national guidance under planning policy statement 9 (PPS9). They represent examples of the cornerstone of biodiversity in York and the surrounding areas. Each was selected to comprise examples of a wide range of habitats, plants and animals occurring in the district.

4.7 Council Ownership of Land

The council owns a variety of land and property throughout the city. This land predominately consists of residential and community uses, including housing, schools, parks and playing fields. As part of the inspection of the district for contaminated land the council will consider its own land and land that it has previously owned.

The council considers that it is possible that there is some land where council activities may have caused contamination. Examples of such activities are vehicle maintenance and refuelling and waste management activities.

Some sites have been redeveloped since 2000. It is considered that the majority of these sites were cleaned up (remediated) prior to redevelopment, to a level considered suitable for their proposed uses.

5 THE INSPECTION PROCESS

5.1 Information Collection

The contaminated land inspection process includes all types of land, both council-owned and not council-owned.

In order to efficiently store and manage contaminated land information, the council has developed a computerised geographical information system (GIS). The GIS holds a range of information, such as the location of past industrial activities with the potential to cause contamination. The information has been collected from a number of different sources, as detailed below.

5.1.1 *Historic Maps*

Historic maps (post 1849) have been reviewed at 10-year intervals where possible, in order to identify the locations of past industrial activities. It is not always possible to identify the exact use of buildings from maps, as many are detailed as depots, warehouses or works. The information must therefore be cross-referenced with alternative sources of data, as detailed in the subsections below. Information on site boundaries and the changing locations of sites will also be noted and recorded on the GIS.

5.1.2 *Trade Directories*

Historical trade directories, held in York central library, provide addresses of former companies, industries and retail outlets. This information can be used with the data collected from historic maps to assist in identifying the use of buildings designated as warehouses or works etc. Where possible, trade directories have been viewed at three-year intervals (post 1843) in an endeavour to capture any changes not documented on the historic maps. Information collected on operations that may give rise to contamination has been inputted onto the GIS.

5.1.3 City of York Council Records

Council records will be reviewed as an ongoing process. Information relating to potentially contaminative processes, such as premises holding petroleum licenses and the locations of underground tanks, have been identified and recorded on the GIS.

Council owned land has been identified from current and historic property databases and added onto the GIS.

The city archives and planning records will also be reviewed as necessary on a case-by-case basis. All relevant information collected will be inputted onto the GIS.

5.1.4 Environment Agency Records

Data has been provided by the Environment Agency detailing the locations of active landfill sites, closed landfill sites, discharge consents and groundwater abstraction points etc. This information has been added onto the GIS. Any additional data received by the Environment Agency regarding the location of receptors, possible pathways and potential sources, or site-specific information requested by the council will be added onto the GIS.

5.1.5 Geological and Hydrogeological Maps

The geology of the area was assessed using geological maps provided by the British Geological Survey.

The hydrology of the area was assessed using groundwater vulnerability maps provided by the Environment Agency (formerly the National Rivers Authority).

These maps have been acquired in an electronic format and added onto the GIS for risk assessment purposes.

5.1.6 *Current Maps*

Current maps have been added onto the GIS. These maps provide information on possible receptors, such as areas of residential housing, schools, parks and playgrounds etc.

5.2 Evaluation of Information

The GIS has been used to carry out a desktop survey of the entire district. This was achieved by overlaying the many different GIS map layers and identifying sites where a source, a pathway, and a receptor (i.e. a pollutant linkage) are all potentially present. At present 3669 potentially contaminated sites have been identified on the council's GIS.

5.3 Prioritisation of Sites

Prioritisation was originally completed in-house and incorporated a policy decision to rank closed landfill sites as the highest priority. This decision was based on the number and size of closed landfill sites in York, their proximity to receptors, their frequent use as public open space, the wide variety of potential contaminants frequently found at such sites and the limited amount of information available on them.

Once an initial assessment of the closed landfill sites was complete, a more detailed prioritisation system was needed. In 2008, sophisticated GIS based prioritisation software was procured from the British Geological Survey to prioritise the 3669 potentially contaminated sites.

The prioritisation software uses the pollutant linkage concept, as outlined in Part 2A legislation. The software has been developed to allow scoring of the different sources, pathways and receptors for a site and its surroundings. The simple scoring system can then be used to allow qualitative ranking of potentially contaminated sites. The scores obtained are mapped to establish the highest priority sites within York.

The software places each site in one of five priority categories (A – E). Table 5.1 shows how the council has defined these categories.

Table 5.1 – Description of Priority Categories

Category	Description
A	Contaminants certainly or probably present. One or more pathways to identified receptors are likely to exist. There is a high risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. High priority, with action to inspect the site being required in the short term.
B	The presence of contaminants is likely. One or more pathways to identified receptors are likely to exist. There is a high-medium risk of an unacceptable impact on identified receptors. The current use of the site may not be suitable. High to medium priority, with action to inspect the site being required in the short to medium term.
C	Contaminants may be present. One or more pathways to identified receptors are likely to exist. There is a medium-low risk of an unacceptable impact on identified receptors. Medium to low priority, with action to inspect the site being required in the medium to long term.
D	Contaminants may be present. There is a medium-low risk of the existence of pathway(s) to identified receptors. It is unlikely that the contaminants will have a significant effect on identified receptors. Low priority, with action to inspect the site being required in the long term.
E	Contaminants may be present. There is a low risk of the existence of pathway(s) to identified receptors. It is highly unlikely that the contaminants will have a significant effect on identified receptors. Low priority, with action unlikely to be needed whilst site remains in present use or is undisturbed.

Please note that the software cannot identify contaminated land, but it does prioritise land which has the potential to be contaminated. It is designed to be used with expert judgement to assess whether the combination of sources, pathways and receptors requires a detailed investigation. A detailed inspection will then enable a determination to be made as to whether any significant pollutant linkages are present.

The council's site prioritisation work has identified 3669 potentially contaminated sites. Table 5.2 shows the number of sites within each risk priority category:

Table 5.2 – Number of Sites within Each Priority Category

Category A:	77 potentially contaminated sites
Category B:	1,561 potentially contaminated sites
Category C:	458 potentially contaminated sites
Category D:	372 potentially contaminated sites
Category E:	1,201 potentially contaminated sites

The process for identifying potentially contaminated land is an ongoing activity. Further information may come to light at any stage in the procedure, and we will take into account information obtained from or volunteered by the public, site owners, businesses and voluntary organisations. New and updated information will also often be provided as a result of exchanges of information between departments (particularly between the environmental protection unit and development control) and with the Environment Agency and other statutory bodies.

5.4 Detailed Site Investigations

The council will commence the detailed inspection of sites in priority order. Within each priority category, land that was previously and is currently owned by the council will be identified first, followed by non-council owned land. This

approach will be adopted to allow the council to set precedents on the identification and remediation of contaminated sites and to demonstrate its commitment to discharging its responsibilities under Part 2A. It is hoped that this approach will be followed by other land owners and encourage the voluntary remediation of sites.

Detailed inspection is done on a site by site basis. The purpose is to gain sufficient information to determine whether or not there is a significant pollutant linkage and whether the site is contaminated land under Part 2A. Staff from the council's environmental protection unit will carry out detailed inspections and will appoint external consultants to assist where necessary.

Detailed site investigation can be costly, so the council will fund these by making applications to DEFRA under its contaminated land capital grants programme. However, the council can only bid for support if it is 'likely' rather than only 'reasonably possible' that contamination is actually present and that a receptor is present. In other words, the council will always have to carry out initial investigations to obtain such evidence before we can apply to DEFRA for support. If the bid for funding is successful then a capital grant will be provided to fund the detailed investigation.

Typically, a detailed inspection may include the following activities:

- ◆ Liaison with site owners/occupiers ensuring those with a responsibility for the land are kept informed of progress;
- ◆ A site visit and walkover survey to assess any visual problems on site and identify the proximity of sources and receptors;
- ◆ A review of all documentation relevant to the site, to include information held by the site owners/occupiers, the council, the Environment Agency and other relevant bodies;

- ◆ A review of past and present site activities;
- ◆ Liaison with statutory consultees and investigation of any past pollution incidents.
- ◆ Collection of soil, water and ground gas samples as required. Sampling will be carried out in accordance with British Standard 10175 - code of practice for investigation of potentially contaminated sites [7], British Standard 5930 - code of practice for site investigations [8], and British Standard 8485 - Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments [9].
- ◆ Where necessary, conduct a risk assessment to determine if a significant pollutant linkage is present.

Once sufficient site information has been collected a report will be produced detailing further action to be undertaken on a site-specific basis. The report will include site characterisation details and a risk assessment.

5.5 Determination of Contaminated Land and Remediation

Once the detailed inspection is complete, the council will be in a position to determine whether or not the site is statutory contaminated land. The statutory guidance [3] outlines how councils must do this.

There are six reasons for determining that a site is contaminated land, these are listed below:

- ◆ Significant harm is being caused
- ◆ There is a significant possibility that significant harm is being caused

- ◆ Pollution of controlled waters is being caused
- ◆ Pollution of controlled waters is likely to be caused
- ◆ Harm attributable to radioactivity is being caused
- ◆ There is a significant possibility that harm attributable to radioactivity is being caused

The statutory guidance gives details of the receptors that can be considered, and explains what constitutes 'significant harm'. The term 'pollution of controlled waters' also has a specific legal meaning. These statutory terms and definitions are explained further in the glossary.

The model procedures for the management of land contamination (CLR11), published by the Environment Agency in 2004 [10], provides a technical framework for structured decision-making about contaminated land. In making a determination, councils must carry out an appropriate technical assessment to identify specific significant pollutant linkages.

When the pollutant linkage concerns a receptor where another statutory body has a regulatory role, the council will ensure that the relevant body has been consulted, and that our approach reflects their advice. The most common instance of such consultation is likely to be with the Environment Agency regarding the pollution of controlled waters.

One significant pollutant linkage is enough to designate a site as statutory contaminated land, but often there will be many linkages. If a site is shown to have a complete pollution linkage, then it must be remediated (cleaned-up) to make it safe.

A site shown to have a complete pollution linkage may not always be determined as contaminated land under Part 2A. This is because the council

aims to encourage the voluntary remediation of sites through constant interaction and discussions, rather than through a process of 'naming and shaming' individuals or companies. However, if no alternative solutions can be reached, then the site will be determined to ensure that it is dealt with accordingly.

The following actions will be taken if a site is determined as contaminated land under Part 2A:

- ◆ The appropriate person for the site, this being the person(s) involved during previous discussions, will be officially notified that the site is contaminated under Part 2A;
- ◆ A site designation notice will be issued within seven working days of identification;
- ◆ A remediation notice will be issued within seven working days of determination if voluntary remediation is not an option, providing this is not within three months of notification of the appropriate person(s);
- ◆ Ongoing follow up work will ensure that remediation is completed and verification that the site is now suitable for use.

A copy of the risk assessment undertaken prior to determination of a site will be held by the environmental protection unit. Once a site has been identified for determination, the Environment Agency will be notified officially and will provide site-specific guidance as necessary.

The council will make decisions about contaminated land on the basis of information available at the time. The decision relates to 'current use' which means any use which is currently being made, or is likely to be made, and which is consistent with any existing planning permission

6 TIMESCALES AND PROGRESS

6.1 Progress Since 2001

The tasks required to be undertaken by the council can be used as progress indicators. Progress on these activities and on our priority actions is summarised in table 6.1.

Table 6.1 – Progress Since 2001

Task	Progress	Completion Date
Publication of a contaminated land strategy	Completed	2001
Provide training for staff to ensure they are competent to carry out the council's duties under Part 2A	Training programmes developed and implemented for staff.	Ongoing
Design a GIS or database to increase accessibility and the cross reference ability of relevant data.	Completed	2001
Identification of potential sources	Review of trade directories, historical maps and internal council records completed.	2001
Identification of potential receptors	Information acquired on residential areas, parks, schools, controlled waters, ecological systems, property	2001

	and buildings (including scheduled ancient monuments).	
Initial prioritisation of sites	Initial prioritisation completed in-house. Based on the source and receptor information, the council made a policy decision to rank closed landfill sites as the highest priority.	2001
Initial assessment of closed landfill sites	The council's environmental protection unit has assessed all closed landfill sites and conducted detailed investigations of 9 landfills.	2007
Commence action on urgent cases	As cases arise or where new knowledge comes to light	Ongoing
Further prioritisation of sites	Sophisticated GIS based prioritisation software was purchased to enable the detailed prioritisation of sites.	2008
Detailed site investigations	Ongoing inspection programme. The council is currently undertaking detailed investigations of priority A and B sites.	Ongoing
Set up and maintain a public register of contaminated land	Completed, but will continue to update as necessary.	Ongoing
Review and update the council's contaminated land strategy	<ul style="list-style-type: none"> - Initial strategy published 2001. - Update and review published in 2005. - Full review and republication of the strategy in 2010. 	Ongoing (next review due in 2013)

6.2 Timetable for Detailed Site Investigations

The GIS and prioritisation software have been used to perform a preliminary risk assessment on each site using a source-pathway-receptor analysis to determine the risk it poses to human health, controlled waters, ecological systems and property. The software places each site in one of five priority categories, where A is the highest priority and E is the lowest priority. Detailed site investigations will be undertaken in priority order.

The risk rating assigned to a particular site may be amended and new sites can be added to the inspection programme if new information comes to light during the course of our work. For example, this might include a change of use of surrounding land (which introduces new receptors) or the potential for pollutant linkages to become significant as a result of unplanned events such as flooding, subsidence or a pollution spillage.

Since the adoption of the initial contaminated land strategy in 2001, the council has conducted detailed investigations at a number of former landfill sites. Details of these investigations are included below:

- ◆ 2009/10 - the council was awarded a DEFRA grant of £51,000 to investigate two closed landfill sites off Askham Lane and Moor Lane.
- ◆ 2007/08 - the council was awarded a DEFRA grant of £38,634 to investigate five closed landfill sites off Fulford Cross.
- ◆ 2006/07 - the council was awarded a DEFRA grant of £33,150 to investigate three closed landfill sites - at Nun Ings, Huntington Road and Fifth Avenue.
- ◆ 2004/05 - the council was awarded a DEFRA grant of £32,500 to investigate a closed landfill sites off Water End.

A significant number of sites have been, or are in the process of being, dealt with through the development control process - in these cases the costs of site investigation are borne by the developer. The council will apply relevant planning conditions to developments and will monitor the works to ensure that the conditions have been met.

At present, 1.0 full time equivalent member of staff in the environmental protection unit is dedicated to the regulation of Part 2A and to assisting development control in the safe redevelopment of contaminated sites. Based on the current level of resources, an initial 15-year programme for the inspection of category A and B sites is proposed, as detailed in table 6.2.

Table 6.2 – Initial Inspection Programme

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Category A sites															
Category B sites															

The council will propose a timetable for inspecting the category C, D and E sites on completion of the above programme, although category E sites will only require action if the current use of the site changes or if the site is otherwise disturbed.

The timescales outlined above do not account for time taken by planning applications or issues that may arise and require immediate attention. As such scenarios cannot be predicted in advance, the completion dates above may be subject to review and alteration.

This inspection programme will be reviewed every three years during the review of the strategy.

6.3 Current Contaminated Land Determinations

To date, the council has not determined any sites as contaminated land under the Part 2A regulatory regime.

6.4 Review of the Strategy

The council will routinely review its inspection strategy to ensure that it continues to represent an efficient use of resources and remains effective in meeting the requirements of the legislation. We intend to review the strategy once every three years, as the Yorkshire and Humberside Pollution Advisory Council (YAHPAC) consider this to be an appropriate review period.

In some circumstances we might need to review the strategy before the scheduled date. Examples of changes that might trigger an unscheduled review are:

- ◆ Amendments or changes to the law on contaminated land, or changes in legislation that is closely related (e.g. water pollution or waste management legislation).
- ◆ Changes to the structure or area of responsibility of the principal regulators (i.e. the council or the Environment Agency).
- ◆ Large scale environmental emergency affecting York (e.g. catastrophic water pollution incident).
- ◆ Significant changes in the budget allowance and available funding for contaminated land duties.
- ◆ Establishment of precedents in court cases which lead to alterations in interpretation of contaminated land law.

7 PROCEDURES

7.1 Statutory Powers of Entry

Under section 108(6) of the Environment Act 1995, local authorities have been granted powers of entry in conjunction with Part 2A for sites believed to be contaminated and causing actual significant harm to receptor(s). These powers allow designated officers to enter premises and inspect the area and any records connected to the site to determine if significant harm is being caused.

Written notice will be issued to the site owner/occupier seven working days prior to entry; unless it is deemed by the investigating officer that immediate action is required to prevent immediate significant harm to public health or the environment.

7.2 Special Sites

For a site to be classified as a special site it must meet the criteria outlined in the Contaminated Land (England) Regulations 2006, as summarised in appendix C. The regulation of special sites falls to the Environment Agency. However, it is the responsibility of the council to identify and designate these sites before further action can be taken. No site will be designated as a special site without detailed discussions with relevant personnel within the Environment Agency. Where the council already has information that would allow the classification of a special site, arrangements can be made so the Environment Agency carries out the inspection of the site on behalf of the council. Once sites are designated as 'special', regulation and enforcement are passed on to the Environment Agency.

The following action will be undertaken when identifying special sites;

- ◆ Identification and description of the aspect(s) of the site leading to its classification as a special site.
- ◆ Initial discussions with the Environment Agency regarding designation.
- ◆ 21 day allowance is permitted for the Environment Agency to object to the designation of a special site.
- ◆ Contact the site owner within five working days of confirmation from the Environment Agency, or after the 21 day objection period if required, to inform them of current position and of the new regulator.

7.3 Requests for Information and Complaints

It is anticipated that requests for information and complaints will be received regarding potentially contaminated land from members of the public, businesses or community groups.

All requests for information and complainants will be acknowledged within 3 days of receipt and we will provide a timescale for a full reply. Please note that circumstances may arise where specific information cannot be released due to commercial confidentiality or where legal action is required to enforce a remediation notice. Details of when information will be treated as confidential are given in appendix E.

Land will not be designated as contaminated by the council merely on anecdotal information. Further investigations will be undertaken to demonstrate with formal evidence that a complete source-pathway-receptor linkage exists.

7.4 Enforcement Policy

The council intends to carry out its responsibilities under Part 2A in a clear and transparent manner. It will endeavour to promote voluntary remediation of sites designated as contaminated and will only proceed with enforcement action when all other avenues have been exhausted. However should enforcement action be required, for example due to the failure to fulfil the requirements of a remediation notice, action will be taken in accordance with the council's enforcement policy (see appendix D).

7.5 Part 2A Public Register

The council is required to maintain a register of contaminated land. This will be held by the environmental protection unit and will comprise of paper files, including the information contained on the GIS. These will be available to the public for viewing during office hours by appointment or, information on a site-specific basis can be obtained for a nominal charge for officer time and resources.

As required by the regulations the public register will contain information on;

- ◆ The identification of special site designations;
- ◆ remediation notices served;
- ◆ site reports relating to remediation work undertaken in response to a remediation notice;
- ◆ validation of remediation work;
- ◆ appeals against remediation notices;
- ◆ details of convictions

7.6 Liability

The term 'appropriate person' is used in Part 2A to refer to any organisation or individual who will bear responsibility for carrying out any remediation required by the council (or the Environment Agency).

When contaminated land is identified, it will be determined by means of identifying one or more significant pollutant linkages. The appropriate person is then responsible for removing the significant pollutant linkage(s) at the site.

We will initially seek to discover the organisation or individual that caused the contamination. This person is a 'class A appropriate person'. In some instances there may be more than one class A appropriate person, and they will be held liable for the costs of remediation in proportion to the amount or severity of contamination that they have caused.

If no class A appropriate person can be found, Part 2A states that liability will fall to the current landowner or occupier. These people are referred to as 'class B appropriate persons'.

There are some circumstances where a significant pollution linkage may exist but no appropriate person can be found. In such circumstances, the significant pollution linkage becomes an 'orphan linkage'. Where an orphan linkage is the only significant pollutant linkage identified, the enforcing authority (normally the council or the Environment Agency) will bear the cost of any remediation required. Further details are defined in the statutory guidance [3].

In more complicated cases where there are two or more significant pollution linkages, of which some are orphan linkages, we will consider each of these separately. There are circumstances where all or part of the remediation costs for orphan linkages are recoverable from appropriate persons identified for other significant pollutant linkages. These circumstances generally apply

where the remediation required for the orphan linkages are also required for some or all of the other significant pollution linkages for which appropriate persons have been identified.

The council will seek to identify and consult with people who may be appropriate persons as soon as possible during the detailed inspection process. It is our intention to agree voluntary remediation for contaminated land sites wherever possible. Remediation notices will only be served where voluntary action is not forthcoming within a reasonable time frame. We recommend that anyone who believes that they may be an appropriate person should in the first instance refer to Part 2A legislation [1] and the supporting statutory guidance [3].

7.7 Rights of Appeal against a Remediation Notice

Any person who receives a remediation notice has 21 days within which to appeal against the notice. Where a remediation notice is served, an appeal is made to the Secretary of State.

Once an appeal has been duly made to the appropriate body, the remediation notice is suspended until the appeal is determined or withdrawn. Both the council and the Environment Agency have powers to serve a remediation notice.

The council has responsibility for issuing and enforcing all remediation notices on sites other than those designated as special sites. Whereas, the Environment Agency has responsibility for the issuing and enforcement of all remediation notices on sites designated as 'special'. Appeals against these notices should be made to the Secretary of State. The process and requirements for appeal against a remediation notice will be included within the remediation notice at the time of issue.

7.8 Recovery of costs

It is the intention of Part 2A that appropriate persons will pay the costs of remediation, either by volunteering to do so or by compulsion following service of a remediation notice. However, there are a number of exemptions where appropriate persons may not have to pay for the works.

In view of the wide variation in situations which are likely to arise (including the history and ownership of land, and liability for its remediation) the council will need to have regard to the particular circumstances of each individual case and the following general principles:

- ◆ The council will aim for an overall result which is as fair and equitable as possible to all who may have to meet the costs of remediation, including national and local taxpayers.
- ◆ The 'polluter pays' principle – where the costs of cleaning up contaminated land are borne by the polluter. The council will consider the degree and nature of responsibility of the appropriate person for the creation, or continued existence, of the circumstances which lead to the land in question being identified as contaminated land.

In general, this will mean that the council will seek to recover its reasonable costs in full. However, the council will consider waiving or reducing the recovery of costs to the extent that it considers appropriate and reasonable, either:

- ◆ To avoid any hardship, which the recovery may cause to the appropriate person. The term "hardship" is not defined in Part 2A, and therefore carries its ordinary meaning – hardness of fate or circumstance, severe suffering or privation; or
- ◆ To reflect one or more of the specific considerations set out in chapter E of the statutory guidance [3].

In certain circumstances, the council may consider deferring recovery of its costs and securing them by a charge on the land in question. Such deferral may lead to payment from the appropriate person either in instalments or when the land is next sold.

The council will inform the appropriate person of any cost recovery decisions taken, explaining the reasons for those decisions.

8 STRATEGY CONSULTATION

This strategy has been produced by the council's environmental protection unit, with internal consultation with other council departments and external consultation with statutory consultees and key stakeholders.

In preparing this strategy, a number of statutory bodies, adjoining local authorities and other organisations that may be interested in contaminated land have been consulted. A list of consultees is given in Table 8.1. All consultation responses have been carefully considered in the preparation of this strategy.

It is our intention to continue to take contributions from consultees who have not yet made a response and from any other individual or organisation that would like to comment on this strategy. We propose to consider these responses as part of our regular reviews of the strategy.

Table 8.1: List of Consultees

Organisation	Address
Department for Environment, Food & Rural Affairs (DEFRA)	Contaminated Land Branch Ashdown House 123 Victoria Street London SW1E 6DE
East Riding of Yorkshire Council	Council Offices Church Street Goole DN14 5BG

English Heritage (Yorkshire Region)	37 Tanner Row York YO1 6WP
Environment Agency	Coverdale House Aviator Court Clifton Moor York YO30 4GZ
Food Standards Agency	Aviation House Room 707c 125 Kingsway London WC2B 6NH
Hambleton District Council	Civic Centre Stone Cross Northallerton North Yorkshire DL6 2UU
Harrogate Borough Council	Springfield House Kings Road Harrogate HG1 5NX
Health Protection Agency	North Yorkshire team IT Centre York Science Park Heslington York YO10 5DG
Local Planning Authority	City of York Council 9 St. Leonard's Place York YO1 7ET

Natural England (North Area Team)	Genesis 1 University Road Heslington York YO10 5ZQ
Ryedale District Council	Ryedale House Malton North Yorkshire YO17 7HH
Selby District Council	Civic Centre Portholme Road Selby North Yorkshire YO8 4SB

9 CONTACTING US

9.1 Viewing the Contaminated Land Strategy

This strategy document is available to download free-of-charge from the pollution section of the council's website. It is also available to view in paper format in York central library and in the council's reception at 9 St. Leonard's Place.

A private copy of this strategy can be provided upon request, but will carry a nominal charge. Such requests should be directed to the council's senior contaminated land officer.

9.2 Viewing the Public Register

A public register detailing regulatory activity on contaminated land can be viewed in the pollution section of the council's website. You may also view the register during normal office hours by visiting the council reception at 9 St. Leonard's Place and enquiring for the environmental protection unit.

9.3 Public Access to Information

The environmental protection unit hold a wide range of information on GIS, including the location of past industrial activities and landfill sites. In line with Part 2A, we intend to investigate all areas of past industrial activity and we can provide information on whether specific sites are included in our Part 2A inspection list.

Information on a site-specific basis can be made available to the public, for a nominal charge to cover officer time and resources. However, please note that circumstances may arise where specific information cannot be released

due to commercial confidentiality or where legal action is required to enforce a remediation notice.

9.4 General Enquiries

Enquiries regarding contaminated land can be made by telephone, e-mail, or in writing. The council has a policy that all such requests will be responded to within 10 working days. There may be a charge to cover our costs to reply to some kinds of query, but we will always tell you in advance if there is a charge. Please note that some information is confidential. Details of when information will be treated as confidential are given in appendix E.

Enquiries should be directed to:

Senior Contaminated Land Officer
Environmental Protection Unit
City of York Council
9 St. Leonard's Place
York
YO1 7ET

Tel: 01904 551533

Fax: 01904 551590

email: environmental.protection@york.gov.uk

REFERENCES

- [1] **Environmental Protection Act 1990, Part 2A:** inserted by the Environment Act 1995, Section 57. See Environment Act 1995 for text of Part 2A.
- [2] **The Contaminated Land (England) Regulations 2006.** Statutory Instrument (SI 2006/1380).
- [3] DEFRA (2006). **Circular 01/2006: Environmental Protection Act 1990 Part 2A, Contaminated Land.** DEFRA, London.
- [4] DEFRA (July 2008). **Guidance on the Legal Definition of Contaminated Land.** DEFRA, London.
- [5] Office of the Deputy Prime Minister (2004). **Planning Policy Statement 23: Planning and Pollution Control. Annex 2: Development on Land Affected by Contamination.** ODPM, London.
- [6] Yorkshire and Humberside Pollution Advisory Council (March 2009). **Development on Land Affected by Contamination: Technical Guidance for Developers, Land Owners and Consultants.** YAHPAC.
- [7] British Standards Institute (2001). **BS 10175:2001: Investigation of Potentially Contaminated Sites – Code of Practice.** BSI, London.
- [8] British Standards Institute (1999). **BS 5930:1999: Code of Practice for Site Investigations.** BSI, London.

[9] British Standards Institute (2007). **BS 8485:2007: Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments**. BSI, London.

[10] Environment Agency (2004). **CLR11: Model Procedures for the Management of Land Contamination**. Environment Agency, Bristol.

GLOSSARY OF TERMS

This strategy document uses a number of terms that are defined in the statutory guidance and which are contained within Part 2A legislation. The meanings of the most important of these terms are detailed below and where appropriate a reference to the relevant section of Part 2A has been included.

Appropriate Person:	Defined in section 78A(9) as: 'any person who is an appropriate person, determined in accordance with section 78F, to bear responsibility for any thing which is to be done by way of remediation in any particular case.'
Class A person:	A person who is an appropriate person by virtue of section 78F(2) (that is because he has caused or knowingly permitted a pollutant to be in, on or under the land).
Class B person:	A person who is an appropriate person by virtue of section 78F(4) or (5) (that is, because he is the owner or occupier of the land in circumstances where no class A person can be found with respect to a particular remediation action).
Contaminant:	A substance which is in, on or under the land and which has the potential to cause significant harm or the pollution of controlled waters.
Contaminated Land:	Section 78A (2) defines contaminated land as: 'any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that; a) significant harm is being caused or there is

	<p>a significant possibility of such harm being caused; or</p> <p>b) pollution of controlled waters is being, or is likely to be, caused.'</p> <p>OR with respect to radioactive contamination defined in section 78A(2) (as modified) as;</p> <p>'any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that;</p> <p>a) harm is being caused; or</p> <p>b) there is a significant possibility of harm being caused.'</p>
Controlled Waters:	Defined in section 78A(9) by reference to Part 3 (section 104) of the Water Resources Act 1991; this includes territorial and coastal waters, inland fresh waters and ground waters.
Enforcing Authority:	Defined in section 78A(9) as: <ul style="list-style-type: none"> a) in relation to a special site, the Environment Agency; b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated.
Environment Agency:	An executive non-departmental public body, which aims to protect and improve the environment and to promote sustainable development.
Geology:	The study of the structure of rocks, minerals and soils in specific geographical areas
Harm:	Defined in section 78A(4) as: <p>'harm to the health of living organisms or other interference with the ecological systems of which</p>

	<p>they form part and, in the case of man, includes harm to his property.'</p> <p>OR with respect to radioactive contamination defined in section 78A(4) (as modified) as: 'lasting exposure to any person being resulting from the after effects of a radiological emergency, past practice or past work activity.'</p>
Hydrogeology:	The study of water movement through rock beneath the earth's surface.
Hydrology:	The study of the occurrence, distribution, movement and properties of all waters on the earth's surface and in its atmosphere.
Inspection using statutory powers of entry:	Any detailed inspection of land carried out through use of powers of entry given to an enforcing authority by section 108 of the Environment Act 1995.
Intrusive Investigation:	An investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land or assessment of documentary evidence. Also known as site investigation.
Local Authority:	Defined in section 78A(9) as meaning any unitary authority or district council etc.
Orphan Linkage:	A significant pollutant linkage for which no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.
Owner:	Defined in section 78A(9) as: 'a person (other than the mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not

	let at a rack rent, would be so entitled if it were so let.'
Part 2A:	Part 2A of the Environmental Protection Act 1990.
Pathway:	One or more routes or means by which a receptor; a) is being exposed to, or affected by, a contaminant, or b) could be so exposed or affected.
Public Register:	Register maintained by the enforcing authority under section 78R of particulars relating to contaminated land.
Pollutant:	A contaminant which forms part of a pollutant linkage.
Pollutant Linkage:	The relationship between a contaminant, a pathway and a receptor.
Pollution of controlled waters:	Defined in section 78A(9) as; 'The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.'
Prioritisation:	The process of scoring sites based on the potential contaminant sources, pathways and receptors for a site and its surroundings. This creates a prioritised list of sites, which can then be inspected in priority order.
Receptor:	Either: a) a living organism, a group of living organisms, an ecological system or a piece of property which: i) is in a category listed in table A in chapter A as a type of receptor, and ii) is being, or could be, harmed, by a contaminant; or b) controlled waters which are being, or could be, polluted by a contaminant; or

	<p>c) a person subjected to lasting exposure resulting from the after-effects of a radiological emergency, past practice or past work activity.</p>
<p>Remediation:</p>	<p>Defined in section 78A(7) as</p> <p>'a) the doing of anything for the purpose of assessing the condition of;</p> <ul style="list-style-type: none"> i) the contaminated land in question; ii) any controlled waters affected by that land; or iii) any land adjoining or adjacent to that land; <p>b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose -</p> <ul style="list-style-type: none"> i) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or ii) of restoring the land or waters to their former state; or <p>c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.'</p> <p>OR with respect to radioactive contamination defined in section 78A(7) (as modified) as:</p> <p>'a) the doing of anything for the purpose of assessing the condition of –</p> <ul style="list-style-type: none"> i) the contaminated land in question; or ii) any land adjoining or adjacent to that land; <p>b) the doing of any works, the carrying out of any</p>

	<p>operations or the taking of any steps in relation to any such land for the purpose -</p> <ul style="list-style-type: none"> i) of preventing or minimising, or remedying or mitigating the effects of any harm by reason of which the contaminated land is such land; or ii) of restoring the land to its former state; or <p>c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land.'</p>
Remediation Notice:	Defined in section 78E(1) as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.
Remediation Statement:	Defined in section 78H(7). It is a statement prepared and published by the responsible person detailing the remediation actions which are being, have been, or are expected to be, done as well as the periods within which these things are being done.
Risk:	<p>The combination of:</p> <ul style="list-style-type: none"> a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and b) the magnitude (including the seriousness) of the consequences.
Significant harm:	Defined in section 78A(5). It means any harm which is determined to be significant in accordance with chapter A of the statutory guidance.
Significant possibility	A possibility of significant harm being caused

of significant harm:	which, by virtue of section 78A(5), is determined to be significant in accordance with chapter A of the statutory guidance.
Site Investigation:	An investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land or assessment of documentary evidence. Also known as intrusive investigation.
Special Site:	<p>Defined by section 78A(3) as</p> <p>‘Any contaminated land -</p> <ul style="list-style-type: none"> a) which has been designated as such a site by virtue of section 78C(7) or 78D(6)...; and b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)...’ <p>The effect of a site being designated as a Special Site is that the Environment Agency, rather than the local authority, becomes the enforcing authority for the land.</p>
Substance/Source:	<p>Defined in section 78A(9) as:</p> <p>‘Any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.’</p> <p>OR with respect to radioactive contamination defines in section 78A(9) (as modified) as:</p> <p>‘Whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice</p>

	or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and Tl-210.'
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APPENDIX A – POSSIBLE SOURCES OF CONTAMINATION

- ◆ Smelters, foundries, steel works, metal processing & finishing works
- ◆ Coal & mineral mining & processing, both deep mines and opencast
- ◆ Heavy engineering & engineering works, e.g. car manufacture, shipbuilding
- ◆ Military/defense related activities
- ◆ Electrical & electronic equipment manufacture & repair
- ◆ Gasworks, coal carbonisation plants, power stations
- ◆ Oil refineries, petroleum storage & distribution sites
- ◆ Manufacture & use of asbestos, cement, lime & gypsum
- ◆ Manufacture of organic & inorganic chemicals, including pesticides, acids/alkalis, pharmaceuticals, solvents, paints, detergents and cosmetics
- ◆ Rubber industry, including tyre manufacture
- ◆ Munitions & explosives production, testing & storage sites
- ◆ Glass making & ceramics manufacture
- ◆ Textile industry, including tanning & dyestuffs
- ◆ Paper & pulp manufacture, printing works & photographic processing
- ◆ Timber treatment
- ◆ Food processing industry & catering establishments
- ◆ Railway depots, dockyards (including filled dock basins), garages, road haulage depots, airports
- ◆ Landfill, storage & incineration of waste
- ◆ Sewage works, farms, stables & kennels
- ◆ Abattoirs, animal waste processing & burial of diseased livestock

- ◆ Scrap yards
- ◆ Dry cleaning premises
- ◆ All types of laboratories
- ◆ Burial sites and graveyards
- ◆ Agriculture – specifically the excessive use or spills of pesticides, herbicides, fungicides, sewage sludge & farm waste disposal
- ◆ Naturally occurring contamination

APPENDIX B – PART 2A RECEPTORS

The receptors detailed below are those contained within the statutory guidance [3] and considered under Part 2A. For further details of possible receptors and what constitutes significant harm, please refer to the statutory guidance [3].

- ◆ Human beings

- ◆ Any ecological system, or living organism forming part of such system, within a location which is:
 - i) A site of special scientific interest
 - ii) A national nature reserve
 - iii) A marine nature reserve
 - iv) An area of special protection for birds
 - v) Any European site within the meaning of regulation 10 of the Conservation Regulations 1994 e.g. special areas of conservation and special protection areas.
 - vi) Any candidate special areas of conservation or special protection areas
 - vii) Any habitat afforded protection under paragraph 6 of planning policy statement 9 (PPS9) e.g. RAMSAR sites
 - viii) Any nature reserve under section 21 of the National Parks and Access to the Countryside Act 1949

- ◆ Property in the form of;
 - i) Crops, including timber
 - ii) Produce grown domestically, or on allotments for consumption
 - iii) Livestock
 - iv) Other owned or domesticated animals
 - v) Wild animals which are the subject of shooting or fishing rights

- ◆ Property in the form of buildings. For this purpose “building” means any structure or erection, and any part of a building including any part below ground level, does not include plant/machinery within a building.

- ◆ Controlled waters, as defined by the Water Resources Act 1991. Including groundwater, rivers, streams etc.

APPENDIX C – DEFINITION OF A SPECIAL SITE

A special site is a contaminated land site that is regulated by the Environment Agency instead of the local authority. The definition of a special site as given in the Contaminated Land (England) Regulations 2006 [2] is reproduced in the extract text below for information only. Reference should be made to the full text of the legislation and statutory guidance for a full legal definition and for details of references where quoted.

Contaminated land of the following descriptions is prescribed for the purposes of section 78C(8) as land required to be designated as a special site:

- a) land affecting controlled waters in the circumstances specified in regulation 3;
- b) land which is contaminated land by reason of waste acid tars in, on or under the land;
- c) land on which any of the following activities have been carried on at any time;
 - i) the purification (including refining) of crude petroleum or of oil extracted from petroleum, shale or any other bituminous substance except coal; or
 - ii) the manufacture or processing of explosives;
- d) land on which a prescribed process designated for central control has been or is being carried on under an authorisation, where the process does not solely consist of things being done which are required by way of remediation;
- e) land on which an activity has been or is being carried on in a Part A(1) installation or by means of Part A(1) mobile plant under a permit,

where the activity does not solely consist of things being done which are required by way of remediation;

- f) land within a nuclear site;
- g) land owned or occupied by or on behalf of -
 - i) the Secretary of State for defence;
 - ii) the defence council,
 - iii) an international headquarters or defence organisation, or
 - iv) the service authority of a visiting force, being land used for naval, military or air force purposes;
- h) land on which the manufacture, production or disposal of -
 - i) chemical weapons,
 - ii) any biological agent or toxin which falls within section 1(1)(a) of the Biological Weapons Act 1974 (restriction on development of biological agents and toxins), or
 - iii) any weapon, equipment or means of delivery which falls within section 1(1)(b) of that Act (restriction on development of biological weapons) has been carried on at any time;
- i) land comprising premises which are or were designated by the Secretary of State by an order made under section 1(1) of the Atomic Weapons Establishment Act 1991 (arrangements for development etc of nuclear devices);
- j) land to which section 30 of the Armed Forces Act 1996 (land held for the benefit of Greenwich hospital) applies;

k) land which is contaminated land wholly or partly by virtue of any radioactivity possessed by any substance in, on or under that land; and

l) land which -

i) is adjoining or adjacent to land of a description specified in any of sub-paragraphs (b) to (k); and

ii) is contaminated land by virtue of substances which appear to have escaped from land of such a description.

APPENDIX D – ENFORCEMENT POLICY



Environmental Health Trading Standards and Licensing Services

Enforcement Policy

This document is the enforcement policy for City of York Council’s environmental health, trading standards and licensing services. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by these services. In carrying out their duties officers will adhere to the principles of good enforcement set out in the ‘Statutory Code of Practice for Regulators’ and all other relevant codes of good practice.

1.0 Introduction

The main purposes of the environmental health, trading standards and licensing services are to maintain a fair and safe trading environment for consumers and businesses, to help reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York and to protect and improve the environment. We recognise that effective and well-targeted regulation is essential in achieving this.

We will ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand comply with the law.
- Responding proportionately to breaches of the law.

2.0 Economic Progress

We will consider the impact that our regulatory activities may have on businesses, including consideration of costs, effectiveness and perceptions of fairness. We will only adopt a particular approach if the benefits justify the costs and in doing so will endeavour to keep any perceived burdens to a minimum.

(References to costs and benefits include economic, social and environmental costs and benefits).

3.0 Risk Assessment

We will allocate our resources where they will be most effective by assessing the risks due to non-compliance with the law. The risk factors include:

- the potential impact on residents, consumers and business in failing to meet legal requirements.
- the likelihood of non-compliance taking into account matters such as: the past history, the systems the business has in place, management competence and willingness to comply.

4.0 Advice and Guidance

We recognise that prevention is better than cure and will actively work with business and residents to advise on and assist with, compliance with the law.

In doing this we will ensure that:

- Legal requirements are made available and communicated promptly upon request.
- The information we provide will be in clear, concise and accessible language. Advice will be confirmed in writing where necessary.
- We will clearly distinguish between legal requirements and guidance aimed at improvements above minimum standards.

5.0 Inspections and Other Visits

All inspections and other visits to businesses will be undertaken after consideration of the risk the business poses if it fails to comply with the law (see paragraph 3.0 above), where the business has requested advice or where intelligence/information suggests that an inspection or visit is appropriate.

- Where we carry out inspections we will give feedback to the business on what the officer has found; this will include positive feedback to encourage and reinforce good practice.
- Where practicable we will co-ordinate inspections with other regulators to minimise the burden on businesses.
- Random inspection will be undertaken where government guidelines require us to do so. A small amount of random inspection may also be undertaken to test our risk assessments or the effectiveness of any action we have taken.

6.0 Information Requirements

We will only ask businesses for information that is necessary after considering the cost and benefit to obtaining the information. Where possible we will share this information with our partners (taking account of data protection) to prevent the need for providing the information more than once.

7.0 Compliance and Enforcement Actions

We recognise that most businesses and individuals wish to comply with the law, however firm action will be taken against those who flout the law or act irresponsibly.

We will carry out all of our enforcement duties, including taking formal enforcement action, in a fair, equitable and consistent manner. Whilst officers exercise judgement in individual cases, we will have arrangements in place to promote consistency including liaison with other agencies and authorities.

Formal enforcement action will only be considered and taken in the first instance in cases involving unfair commercial practices against consumers, commercial fraud, sales of age restricted products, occupational health and safety, public safety, a risk to public health (including food safety), statutory nuisances, animal health and welfare, damage to the environment, overloaded goods vehicles, dog fouling, trading standards offences committed by doorstep sellers and the sale of imitation firearms.

Formal enforcement action will also be considered and may be taken where advice has been ignored.

Where formal enforcement action is necessary, we will consider the most appropriate course of action (from the range of sanctions and penalties available) with the intention of:-

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit from non-compliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with a criminal conviction.
- Being proportionate to the nature of the offence and harm caused

- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

Before formal enforcement action is taken:

- There will be an opportunity to discuss the circumstances of the case, unless immediate action is required e.g. to prevent the destruction of evidence or there is an imminent risk to the environment or health and safety. This discussion will usually follow an interview under caution if a prosecution is being considered.
- Where immediate formal enforcement action is taken, which will usually be the service of a written notice, reasons for such action will be given at the time (if possible) and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.
- Clear reasons will be given for any formal enforcement action taken, and confirmed in writing.

For the purposes of this policy 'formal enforcement action' includes serving a legal notice (e.g. an improvement, suspension, prohibition, fixed penalty or abatement notice), the seizure of goods, the seeking of an injunction, the issue of a 'formal' written caution and prosecution. In cases involving food safety and the issue of legal notices and voluntary closure of premises we will follow guidance set out in the appropriate Food Standards Agency Food Law Code of Practice.

If the formal enforcement action being considered is a prosecution we will also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance such as the

Enforcement Management Model published by the Health and Safety Executive. These factors may include the following:

- The seriousness of the alleged offence
- The history of the party concerned
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers
- Whether it is in the public interest to prosecute
- The realistic prospect of conviction
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective
- The views of any complainant and other persons with an interest in prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

8.0 Accountability

We will be accountable for the efficiency and effectiveness of our activities, while remaining independent in the decisions we take.

- We shall provide businesses and individuals with effective consultation and opportunities for feedback on our service.
- Officers will be courteous, fair and efficient at all times, and will identify themselves by name.
- Any complaints about the way you have been treated will follow City of York Council's complaints procedure, which is easily accessible to all service users, and explains how to make a complaint and the

timescales involved. A copy of the complaints procedure can be obtained from 9 St Leonard's Place, York, by telephoning 01904 551550 or via our website at www.york.gov.uk

9.0 Application of our enforcement policy

All officers will have regard to this document when making enforcement decisions.

Any departure from this policy must be exceptional, capable of justification and be fully considered by the head of service before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made. In cases of emergency or where any exceptional conditions prevail, the chief executive may suspend any part of this policy where necessary to achieve effective running of the service and/or where there is a risk of injury or to health of employees or any members of the public.

10.0 Review

This document will be subject to an annual review with additional reviews as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the head of environmental health and trading standards by calling 01904 551550 or by writing to 9 St Leonard's Place, York YO1 7ET or email to trading.standards@york.gov.uk.

APPENDIX E – CONFIDENTIALITY OF INFORMATION

The majority of the information generated by, or supplied to the council about the condition of land will be in the public domain. This will be true whether or not the site appears on the public register.

Under certain circumstances the council may not be able to place information on the public register (or release it in response to other requests).

Circumstances where information is withheld include:

- ◆ Where this is in the interests of national security
- ◆ Where this is commercially confidential
- ◆ Where the information relates to the affairs of any individual or business

Where information has been excluded from the public register for reasons of commercial confidentiality, the council will place a statement on the register to indicate this.

The supply of any other environmental information held by the council is also subject to 12 specified exceptions (determined by the Environmental Information Regulations 2004), although non-disclosure of information may be subject to a public interest test – see below. These include:

- ◆ Where this is in the interests of national security
- ◆ Where the information is an issue in any legal proceedings or enquiry

- ◆ Where the information is still being completed, or is an internal communication of a relevant person

- ◆ Where this would affect the confidentiality of the deliberations of a relevant person

- ◆ Where this is commercially confidential

The confidentiality of any information supplied to the council by third parties is determined when the information is received. Where a third party states that information it supplies to the council is commercially confidential, or cannot be released for any of the other reasons given above, then the council asks for a justification to be provided giving the reasons for this. Information that is confirmed as confidential on the basis of a justification cannot be released to other parties. Where the council is unable to supply information it will give the reason for this.

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**Executive Member Decision Session
– Neighbourhoods**

16th February 2010

Report of the Director of Neighbourhood Services

FOOD HYGIENE 'SCORES ON THE DOORS' UPDATE

Summary

1. The purpose of this report is to update the Executive Member on the progress of the food hygiene 'Scores on the Doors' scheme that was launched in June 2009 and to seek the approval of the Executive Member to continue with the York scheme pending introduction of a national scheme by the Food Standards Agency.

Background

2. Scores on the Doors (SOTD) is an initiative that allows members of the public to access certain information gathered during food hygiene inspections, allowing them to gain information about the standards of hygiene within a particular food premises.
3. The Food Standards Agency (FSA) has been consulting on a national approach to 'scores on the doors' for a number of years, but to date has not made a final decision.
4. Because of this delay, and the potential benefits that a SOTD scheme would deliver, the council's food and safety unit launched SOTD in York during Food Safety Week 2009.
5. Access to star ratings through a web site is an essential part of SOTD. The organisation Transparency Data, which has been running a SOTD web site since 2005, was selected to run York's scheme. The web site is currently used by over 100 local authorities.

Implementation of the York Scheme

6. The York scheme involves rating a food premises from 0 stars (very poor) to 5 stars (excellent). Prior to going live with the scheme, the Food & Safety Unit wrote to every food business in the city. An explanatory leaflet was provided and each premises informed of their star rating. A copy of this explanatory leaflet is attached to this report as Annex A

7. This generated a large number of enquiries from businesses, most of which related to the star ratings they would receive. These enquiries placed a significant burden on the team. In most cases, officers were able to satisfy the business as to why they were receiving a particular star rating.
8. In a small number of cases, businesses lodged an appeal about their star rating. The only grounds for appeal are whether the risk rating score given to the premises is correct.
9. The risk rating system for food hygiene relies upon interpretation and judgement, so there is the potential for minor discrepancies, which can affect the star rating. As anticipated, a small number of star ratings were amended following appeals, as a result of reviewing the risk rating.
10. Another impact of the scheme has been the increased number of businesses requesting advice visits, to find out what improvements they need to make to improve their star rating. Whilst this has been an additional burden on the team, it is a very encouraging response.
11. An important part of SOTD is giving the general public access to the star ratings. To achieve this, York's SOTD scheme is available on a dedicated web site, which is currently used by 100 local authorities. There is a link to this site on the council's web site, or there is direct access at www.scoresonthedoors.co.uk
12. On the first day the scheme went live, the web site dealt with over 10,000 searches.
13. It continues to receive several thousand searches every month. The figure for December 2009, the last complete month, is 10,290 searches, which shows the continued high interest in the initiative. To date there has been over 100,000 searches.

Improvements

14. A key benefit of SOTD, is that it encourages food businesses to improve their levels of hygiene, so they receive a better star rating. An improved star rating has clear benefits for the business, but there are also benefits for the local authority.
15. In simple terms, an improved star rating means the business has achieved a better risk assessment score. In a number of cases, this means that the premises needs to be inspected less often by the local authority. Officers are then freed up to tackle poor premises that continue to flout hygiene rules. The number of poor premises is monitored by National Performance Indicator 184.
16. Since the scheme has been launched, we have seen some significant improvements in the star ratings of existing food premises (ie those premises that had a star rating at the launch of the scheme).
17. Another significant contribution to this improvement is the work of officers, who have been focusing their attention on businesses that are 'not broadly complaint'

with food hygiene law. Through the use of advice, education and a graduated approach to enforcement, officers have steadily been improving poorer premises.

18. An example of the improvements achieved, is that 48% of premises that were already part of the scheme, and that have received another inspection since the launch received an improved star rating.
19. At the same time, it should also be noted that 14% of premises in the same group saw a drop in their star ratings, due to a fall in standards. This highlights the importance of regular visits to food premises, to ensure that standards are being maintained.

Future Developments

20. It has always been the intention to participate in a national SOTD scheme. One reason there have been delays in launching a national scheme, is because industry has raised concerns about what form the scheme might take.
21. To address this, the FSA have recently set up a steering group to look at developing a national scheme. The key areas they are considering include:
 - The banding of star ratings – This is a key decision area, as it will determine how many stars a premises receives in relation to its risk assessment score.
 - Appeals against star ratings – The FSA is keen to have a policy where food premises can request a re-inspection following a poor star rating. Due to limited resources, we are not currently able to offer this in York.
 - National web site – City of York Council currently pay to use a web site (see paragraphs 10 & 11). The FSA is considering providing a single web site that all local authorities can use, which is hoped to be cost free.
22. If the FSA develop a national scheme, it will be evaluated and a paper presented to the Executive Member to seek approval over what direction York's scheme should take.

Options

23. (a) Continue with York's SOTD scheme and evaluate a national scheme should one be launched.

(b) Withdraw York's SOTD scheme and wait for the possible launch of a national scheme.

Analysis

24. Option (a) will allow the council to continue operating SOTD, a scheme that is being widely used by the public and is helping to improve levels of food hygiene.

25. Option (b) would result in the withdrawal of a service that is widely used by residents and visitors to the city, and may see a drop in food hygiene levels.

Corporate Priorities

26. The SOTD scheme feeds into the council's corporate strategy in a number of areas:
- Thriving City
 - Healthy City
 - Effective Organisation

Financial Implications

27. The cost of operating SOTD can be met from existing budgets therefore there are no financial implications associated with this report.

Human Resources

28. There are no human resource implications.

Equalities

29. There are no equalities implications.

Legal Implications

30. There are no legal implications.

Crime and Disorder

31. There are no crime and disorder implications.

Information Technology (IT)

32. There are no IT implications.

Risk Management

33. There are no risk management issues.

Recommendations

34. The executive member is advised to :

Approve option (a) - Continue with York's SOTD scheme and evaluate a national scheme should one be launched.

Reason: SOTD has been very successful. It provides the public with easy access to information that would otherwise not be readily available. The scheme is also having a positive impact on food hygiene across the city.

Adoption of a national scheme at a later date would be relatively straightforward

Contact Details

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Chief Officer Responsible for the report:

Andy Hudson
Assistant Director (Neighbourhoods & Community
Safety)

Report Approved **Date** 29th Jan 2010

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

EMAP Report – The implementation of a food hygiene ‘scores on the doors’ scheme (6 December 2007)

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A guide for food business operators about the Scores on the Doors scheme



Star Rating	Level of compliance
*****	Excellent
****	Very Good
***	Good
**	Fair
*	Poor
Zero stars	Very Poor

Visit: www.york.gov.uk/business/food/
Tel: (01904) 551 525

What is ‘Scores on the Doors’?

It is an information scheme, which rates food businesses on their standards of hygiene and compliance with food safety law. Your food business will be given between 5 stars (excellent) and zero stars (very poor) according to the results from your last food hygiene inspection (unless you are very low risk).

What are the aims of the scheme?

The aims of the scheme are: -

- To provide customers access to information to allow them to make an informed choice about where to eat in the area.
- To provide an incentive for businesses to improve their standards of food hygiene.
- To promote transparency and consistency in food hygiene inspections.
- To secure long-term improvements in food hygiene in food businesses

How is my star rating calculated?

After a food hygiene inspection your business is risk rated in a number of categories using the scheme set out in Annex 5, Food Law Code of Practice (England). Three of these categories are in direct control of the food business operator, namely:

1. **Food hygiene and safety** – including your food handling practices & procedures and temperature control
2. **Structure** – including cleanliness, layout, condition of the structure, available wash hand basins, lighting, ventilation etc
3. **Confidence in management/control systems** – including your ‘track record’, your willingness to act on previous

advice, your attitude towards food safety, and whether you have a fully implemented documented food safety management system, such as Safer Food Better Business.

Your star rating will be calculated by adding the scores for these 3 categories together. The better your compliance the more stars you will receive.

When will star ratings be re-assessed?

Your star rating will only be re-assessed at your next food hygiene inspection. Revisits to amend the star rating will not be made, even if improvements have been made.

However, the star rating can be withdrawn if standards deteriorate. Therefore, you should keep your premises and food safety practices up to standard all the time to maintain your rating.

Right of reply

A right of reply will be available on the website. This is provided so you can detail any improvements you have made following your last food hygiene inspection. All comments will be vetted by the Food & Safety Unit before they are placed on the website.

Where will the information be available

From 15 June 2009, the star rating for your business will be displayed on the scores on the doors website and if you achieve 2 stars or above you will be sent a certificate to display on your premises. Soon customers will expect to see this in all food premises.

To access your star rating (from June), or, to check out existing schemes visit: www.scoresonthedoors.org.uk

Appeals

You will have the right to appeal your food hygiene risk rating, which determines your star rating. The first point of contact is the inspecting officer, or, the Food & Safety Unit Manager. The appeal process will then be escalated in line with City of York Council's corporate complaints procedure.

How can I improve my star rating?

To get more stars you need to make sure you are fully complying with food safety law.

Initially, you must make sure that you have completed the works that the officer told you about at your last inspection.

In general, we expect that you, and any staff you employ, follow good food hygiene practices and your premises and equipment must be clean and in good repair.

Also, you must have a documented food safety management system in place, such as, Safer Food Better Business. This pack is available free of charge from the Food Standards Agency by telephoning (0845) 606 0667

It is also important that standards are maintained between inspections

For further information about the scheme or advice on how to improve your star rating please contact the Food & Safety Unit on telephone (01904) 551 525 or visit our website at www.york.gov.uk/business/food



Decision Session – Executive Member for Neighbourhoods**16 February 2010**

Report of the Director of Neighbourhood Services

Investment In Containment and Presentation – Recycling Boxes**Summary**

1. This report asks the Executive Member for Neighbourhood Services to consider the options outlined in the report and approve the recommendation made by officers.

Background

2. Kerbside recycling collections are now an integral part of waste collections for most York residents. From an initial starting point of only 1,000 properties, generating around 120 tonnes per year and representing 9.8 per cent of the total waste collected, the service has grown to a position where, in 2008/09, the tonnes of recyclate collected was 27,010 tonnes. This represents a recycling rate of 45.13 per cent (subject to audit).
3. The main milestones in developing the service are as follows:
 - i. **1997** – 1,000 households receive a weekly recycling service
 - ii. **May 2002** – 9,000 households provided with a fortnightly collection of paper, cans and glass
 - iii. **October 2002** – a further 10,000 households added to fortnightly recycling collection service
 - iv. **June/July 2003** – a further 40,000 households added to fortnightly recycling collection service
 - v. **October 2005** – Alternate Week Collection of recyclate (including garden waste) and general refuse introduced to the 60,000 households above.
 - vi. **March 2006** – plastic bottle recycling added to the 60,000 households above and cardboard collections added to 10,000 of these households

- vii. **July 2006** – cardboard collections added to another 10,000 households
 - viii. **March 2007** - cardboard collections added to another 40,000 households
 - ix. **July 2009** – ongoing roll out of kerbside collections to c12,000 properties
4. The materials collected via the kerbside collections are paper, cardboard, cans (both aluminium and steel), plastic bottles and glass. Garden waste is collected separately using wheeled bins and is collected on alternate weeks to general refuse but using the same vehicle and crew.
 5. There has been a downturn in the recyclate market in recent years and the value of some materials has depreciated significantly – mostly paper and plastics. The council has ensured that, through its contractor Yorwaste, the maximum is made from the materials collected and we currently mix cans and plastic, paper and cardboard and the three main colours of glass. This, in effect, means we collect seven material types but mixed into three core types.
 6. As the service has developed and more materials have been available for residents to recycle, so the number and type of containers, used by residents to store and present their recycling, has increased. In the early days only a box and one bag were provided and crews sorted the mixed material by hand into the vehicle. Given the small number of properties this did not present a significant issue.
 7. With the amount of materials collected increasing, the amount of containers increased. At each stage of development, the type of containers provided matched the collection method at the time and the vehicles used. In 2005, given the steady increase in recycling participation and presentation, larger vehicles were introduced to cope better with the capacity.
 8. Residents are encouraged to present their recycling in the containers provided and we do not limit the amount of containers residents can have. This does mean that we are continually providing additional boxes and bags as well as replacements for those that go missing or get damaged.
 9. Residents now have four different containers yet, as described in para 5, we only collect three core types of material. This has led to confusion amongst residents about what and how to present and also additional time for crews having to sort ever increasing amounts of material at the kerbside.

Options

10. There are 2 options for the Executive Member to consider:
 1. Keep the existing arrangement of mixed box and bags or

2. Move to providing 3 boxes, with lids and/or net covers, to residents where practical.

Analysis

11. The current method of storage and presentation does present problems for both residents and crews:
 - a. The use of bags for plastic and paper encourages residents to use their own bags. These are often black sacks that are tied and the collection crew have no idea what the contents are.
 - b. Using boxes without lids and bags causes difficulties on windy days. The material is blown about the street prior to collection and the bags blow away from properties before they are retrieved, following collection, by the resident.
12. During the financial year 2008/09, a comprehensive trial of recycling methods was undertaken in The Groves area of the city. This trial was intended to identify the optimum method for the collection of kerbside materials from terraced and communal properties. The trial concluded in April 2009 and the results widely published.
13. During the trial, various means of storage and presentation were available to residents including providing 3 boxes for the storage and presentation of recyclable materials. One box would contain paper and cardboard, another would contain plastic bottles and cans and the final box would contain glass. This method was found to be the best and suited the vast majority of properties.
14. At the same time, some smaller trials were undertaken where streets were issued with 3 boxes. These streets had been on the recycling service for some time and it was found that when residents used 3 boxes the time taken for crews to collect was reduced significantly. The time per household reduce from 77 seconds, where a mix of box and bags is used, to 18 seconds where 3 boxes are used.

Consultation

15. The use of 3 boxes was included in the budget consultation process with residents during December 2009 under the following heading:

'if residents separated their recycling into different types that go into the compartments on the lorries (1: paper and card, 2: glass bottles and jars, 3: plastic bottles and cans) our crews could be more effectively used as they would spend less time sorting the mix of recycling at the

roadside. This means that the homes in York currently without the collection could be added at less additional cost to Council Tax)

16. The two questions that residents were asked to respond to were:
- a. *Would you support the separation of waste in this way if it meant having three boxes the same size as the current green box and,*
 - b. *Would you support the separation of waste using the existing City of York Council boxes and bags (on the understanding that crews would not collect the recycling if it was not separated properly)?*
17. The results of the consultation were received by the council on 11 January 2010 and the results specific to the questions above are attached as Annex A. From 12,694 responses the survey shows that 63% of residents support the separation of recycling and 83% are in favour of a separate box for each material stream.
18. In addition to the public consultation as part of the budget process, the proposals have been discussed by the Social Inclusion Working Group. This group were positive about the proposals and will also be consulted during the tender process.

Corporate Priorities

19. The Without Walls Sustainable Community Strategy 2008-2025 provides a sustainable framework which aim for York to be a city with low levels of pollution and waste production and high levels of recycling. Moving to three boxes and encouraging residents to separate their material, thus ensuring we collect more high quality material, will help make a significant contribution to fulfilling this aim.
20. This work contributes strongly to the corporate strategy direction statement of placing environmental sustainability at the heart of everything we do.
21. This work also contributes to delivering the aims of the Corporate Sustainability Strategy by reducing York's CO2 emissions, increasing recycling and managing waste to the best practice standards.
22. As part of the More for York Efficiency Programme, the council is looking to achieve efficiency savings where possible. Moving to three boxes will ensure the we maximise the potential of the collection crews.

Implications

Financial - The cost of implementing a 3 box system is £490K. This includes the purchase of boxes and lids as well as the delivery to each property. It will

also cover the cost of a comprehensive information pack for each resident receiving the boxes. It is estimated that annual efficiency savings of £210K will be achieved as a result of this investment.

The council's procurement team have indicated that a mini tender, using the established YPO framework, is a suitable and practical way to undertake the procurement necessary for this project.

Human Resources (HR) – No HR implications

Equalities – an Equalities Impact Assessment will be undertaken prior to the specification and tender process.

Legal - There are no implications in this report.

Crime and Disorder - There are no implications in this report.

Information Technology (IT) - There are no implications in this report.

Property - There are no implications in this report.

Risk Management

23. The risks associated with this report are already contained in the Magique Risk Register for Environmental Services. A copy of the risk report and self certification statement are attached as Annex B to this report.

Recommendations

24. The Executive Member for Neighbourhood Services is asked to consider the options outlined in this report and to approve the move to a 3 box system for residents on kerbside recycling.

Reason

25. York will continue to provide first class recycling facilities for its residents and ensure that the collection service operates as efficiently and effectively as is possible.

Contact Details

Author:

Geoff Derham
Head of Waste, Fleet &
Cleaning Services
Tel No 553111

Chief Officer Responsible for the report:

Sally Burns
Director of Neighbourhood Services

Report Approved *tick* Date *Insert Date*

Chief Officer's name
Title

Report Approved *tick* Date *Insert Date*

Specialist Implications Officer(s)

Implication: Procurement
Name: Chris Shoesmith
Title: Procurement Officer
Tel No 551129

Implication: Financial
Name: Rachel Harrison
Title: Finance Manager
Tel No 553210

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

All

For further information please contact the author of the report

Supporting Papers:

Annex A: Results of budget consultation (December 2009).
Annex B: Self Certification Statement and Risk Register Report.



Background to Budget Consultation 2010

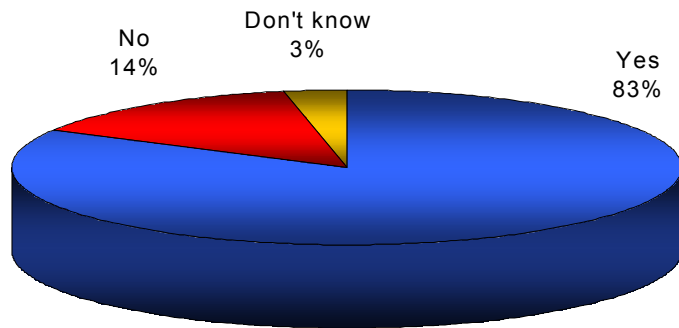
Consultation with residents took place in November and December 2009, in the form of a postal survey, with closing date of 18 December. This survey was undertaken as part of a wider consultation exercise with residents.

The survey was distributed by hand and post to all York households (c87000), in a leaflet combined with the Local Transport Plan 3 consultation. The response was exceptional at 14.6% – a total of 12,694 completed surveys. 12,572 completed the survey by post and 122 completed it online. This is almost 64% up on the 2008/09 response of 7,748. The results are accurate to within +/- 0.8% at the 95% confidence level.

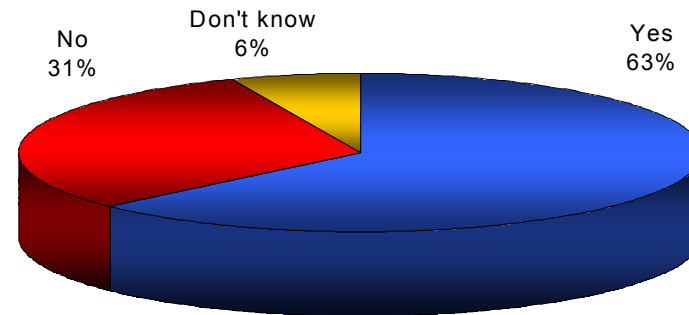
Data-processing was carried out by an independent research agency; the report was written by the market research team, Marketing & Communications.

Overall, 63% of respondents support separating recycling at home before collection. Considerably more (83%) are in favour of using three boxes as opposed to using existing boxes and bags (71%).

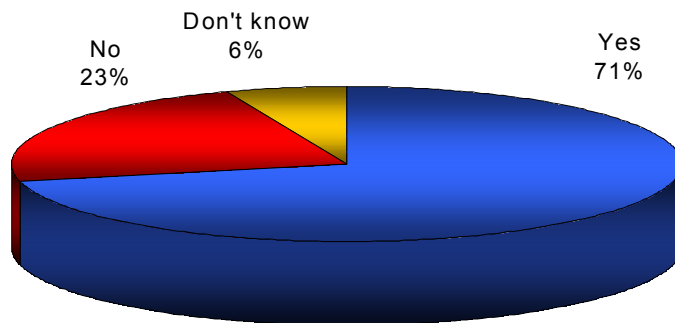
Having three boxes the same size as the current box



Overall support for separating recycling



Using existing boxes and bags



Sub-group analysis:

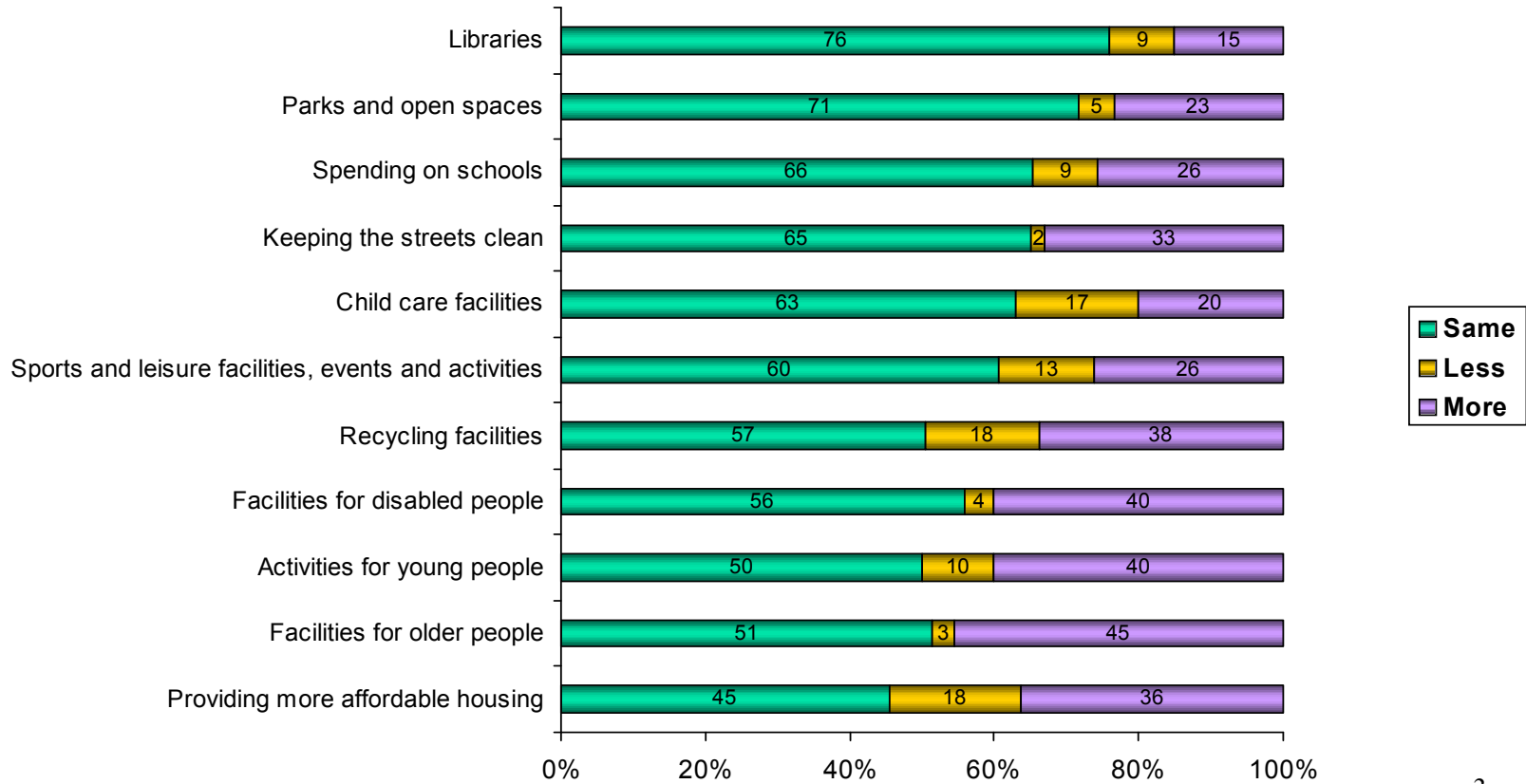
Female respondents (68%), 18-34 year olds (70%) and those with no religious beliefs (68%) are significantly more likely to support separating recycling prior to collection than respondents overall (63%). Although still a majority, disabled respondents (55%) are significantly less likely to support this.

Annex A



SPENDING THE RIGHT AMOUNT – Over two thirds of respondents think the council is spending the right amount on libraries (76%), parks and open spaces (71%) and schools (66%). There is also support for the current spending levels on keeping the streets clean (65%) and child care facilities (63%).

% Areas where respondents think the council is spending the right amount



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ANNEX B

**GALILEO/MAGIQUE
SELF CERTIFICATION STATEMENT
11 December 2009**

AUTHORITY: 13110 - CYC

Compliance with Risk Management and Internal Control Policy

I formally acknowledge that I am responsible for establishing effective risk management and control within the Business Unit specified above. Risk management and internal control are defined as all those procedures and processes established to ensure business objectives are achieved in a cost effective fashion; and control is said to be effective if it addresses the risks identified in the risk assessment as being significant enough to require control. Controls can provide only reasonable and not absolute assurance that all the risks identified are adequately managed.

An analysis of risk has been carried out by the directors and senior managers. This has identified the business risks most important to the Business Unit specified above, considered the financial implications and likelihood of their occurrence, and assessed the effectiveness of their management. The most significant of the risks identified are set out in the attached report together with quantification of the risk, the controls established to manage that risk, and the means whereby I am assured that those controls operate effectively.

I am satisfied that internal controls have been effective, as defined above, during the period since the last self certification until the date below and that there have been no breakdowns or weaknesses that have or could have given rise to material losses.



Geoff Derham

Head of Waste Services

ANNEX B

**GALILEO/MAGIQUE
SELF CERTIFICATION STATEMENT
11 December 2009**

AUTHORITY: 13110 - CYC

Ref	Risk Description	Gross Risk	Net Risk	Control / Action	Ref	Control / Action Description	Rating	Target Date	Responsible
0005	Waste Strategy incomplete/inaccurate/not implemented	High	Medium						
				Control	01	Waste Strategy 2010	No Yes		Geoff Derham
				Action	704	Waste Strategy 2010	Medium	16/03/2010	Geoff Derham
0535	Failure to collect waste	Critical	High						
				Control	01	Access to national hire fleets	No Yes		Geoff Derham
				Control	02	Secure depot	No Yes		Geoff Derham
				Control	03	Onsite maintenance and support	No Yes		Geoff Derham
				Control	04	Fuel stocks	No Yes		Geoff Derham
				Control	05	Two contracts for fuel	No Yes		Geoff Derham
				Control	06	Vehicle prioritisation for maintenance	No Yes		Geoff Derham
				Control	07	Sickness management	No Yes		Geoff Derham
				Control	08	Consultation over pay review	No Yes		Geoff Derham
				Control	09	Transfer of risk into contracts	No Yes		Geoff Derham
				Control	10	Waste strategy	Yes Yes		Geoff Derham
				Control	11	Training	No Yes		Geoff derham
				Control	12	Incident reporting	No Yes		Geoff Derham
				Control	13	Protective clothing	No Yes		Geoff Derham
				Control	14	Contingency resources	No No		Geoff Derham
0834	Failure to meet 2008/09 landfill diversion target	High	High						
				Control	01	Performance monitoring. Carry forward surplus available.	No Yes		Geoff Derham

ANNEX B

**GALILEO/MAGIQUE
SELF CERTIFICATION STATEMENT
11 December 2009**

AUTHORITY: 13110 - CYC

Ref	Risk Description	Gross Risk	Net Risk	Control / Action	Ref	Control / Action Description	Rating	Target Date	Responsible
0835	Failure to meet NPIs and efficiency savings	Med	Low						
				Control	01	Implementation of proposed service improvements	No Yes		Geoff Derham
0836	Failure to identify future landfill diversion facilities	Critical	High						
				Control	01	Progress implementation of Y&NY PFI procurement	No Yes		J Goodyear
1734	Increase carbon footprint of new West of York Recycling site	Medium	Medium						

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**SUBMISSION BY PHILIP J. LANKESTER TO THE NEIGHBOURHOOD
DECISION SESSION ON 16 FEBRUARY 2010**

REFUSE COLLECTION

Background: I spoke to one of the meetings last year because of my opposition to the compulsory introduction of wheelie bins and boxes in the Groves. I was unable to address the next meeting because of a misunderstanding over dates. By the time I caught up the meeting had happened and the decision was made. Although I was interested in the results of further survey work carried out by the Council's staff, there seemed little point at that stage in carrying out my own survey (as I had intended to do) and I was at the time far too busy to do so.

Comment: Although the new system has settled down reasonably well as far as implementing the Council's objectives are concerned, it has, as I have always feared it would, caused a significant deterioration in the general appearance of the area. This has happened for two reasons.

First, many properties that did not formerly store bins and boxes at the fronts of their properties have now been forced (because of the problems of rear access) or chosen to do so. Houses in the Groves are increasingly let to tenants (often, though not always, to students). Generally (and there are exceptions) landlords and tenants are fairly indifferent to the exterior appearance of their properties, especially the front gardens. There is nothing the Council or I can do about that. However, the rolling out of bins and green boxes (now three as against the old single one) to all properties, has given residents a new and very public way to display their indifference to the appearance of their properties. Problems of untidy storage of rubbish and overflowing bins (exacerbated by the bi-weekly collections) that would formerly have been concealed in back gardens or yards, are now permanently displayed for everyone to see. I attach some photographs taken today, by way of illustration (and please bear in mind that the next refuse collection is not until the morning of Tuesday 16th). Overgrown front gardens are relatively easy to overlook: overflowing or untidily scattered bins and boxes are not.

Second, the relatively narrow width of the property frontages in the Groves (characteristic of Victorian working class terraced housing) means that the concentration of bins per yard of frontage is much greater than it would be in areas where the houses are larger or more generously spaced. This, combined with the very shallow depth of most of the front gardens, means that the bins and boxes are much more visually intrusive than they would be in many other areas.

As you know, where houses have no front gardens or courtyards, black bag collections have been allowed to continue. Consequently, except on collection days, they look relatively tidy. By contrast, streets of terraced houses where the houses have front gardens are looking increasingly unsightly. Whether anyone on the Council really cares about this is unclear, but they should.

Philip J. Lankester
29 Stanley Street
York YO31 8NW12 February 2010

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