

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING COMMITTEE – 2 JUNE 2010**

Title of report	<b>INTRODUCTION OF CHARITABLE COLLECTIONS POLICY</b>
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Purpose of report	To consider and approve the Council's Policy relating to Charitable Collections.
Strategic aims	Strong and Safer Communities Prosperous Communities
Implications:  Financial/Staff  Link to relevant CAT  Risk Management  Equalities Impact Assessment  Human Rights  Transformational Government	   Safer CAT    Equality Impact Assessment will be undertaken during 2010/11.    N/A
Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory

Consultees	Other Local Authorities
Background papers	House to House Collections Act 1939 House to House Collections Regulations 1947 Police, Factories, Etc (Miscellaneous Provisions) Act 1916  All background papers can be found at <a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>
Recommendations	<b>TO CONSIDER AND APPROVE THE CHARITABLE COLLECTIONS POLICY</b>

## 1 LEGISLATION

1.1 House to house collections are governed by the House to House Collections Act 1939 (the Act) and the House to House Collections Regulations 1947, as amended. House to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by the Licensing Authority.

1.2 The Licensing Authority is empowered under Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 to license collections made in 'any street or public place' for 'charitable or other purposes'.

## 2. BACKGROUND TO THE INTRODUCTION OF THE POLICY

2.1 Due to the current economic climate, the Licensing Department is receiving more and more applications for house to house collections permits. This is a trend reflected throughout the country.

2.2 The majority of applications are received from commercial clothing collection companies who collect on behalf of a charitable organisation and donate a percentage of the proceeds of the collection to the charity. Typically, the commercial company will give £40 to £50 per tonne to the charity. However, the commercial company receives between £600-£800 per tonne making the actual percentage that is given to charity as low as 5%.

2.3 The House to House Collections Act 1939 permits a Licensing Authority to refuse an application for a house to house permit on the following grounds:

- If too high a proportion of the proceeds is likely to be spent on expenses;
- If not enough of the proceeds are to be given to the charity or cause;
- If incorrect information was provided on the application form;
- If the promoter or any other person involved in the collection has been convicted of certain criminal offences i.e. burglary, blackmail or fraud.

2.4 The Licensing Authority has refused several applications on the grounds that not enough of the proceeds are being given to the charity and too high a proportion of the proceeds are likely to be spent on expenses.

- 2.5 The introduction of the Charitable Collections Policy sets out the principles adopted by this Licensing Authority in relation to house to house collections and street collections. The Policy details how applications will be dealt with, ensures that a wide range of charitable organisations can collect within the District and details, in relation to house to house collections, what this Licensing Authority will accept as a minimum amount to be given to the charitable organisation and a maximum amount to be deducted as expenses from the proceeds of the collection.
- 2.6 It is recommended that at least 75% of the total proceeds of the collection must be given to charity and no more than 25% of the total proceeds of the collection can be deducted by the organisation for expenses/costs relating to the collections.
- 2.7 The Policy will allow potential applicants to determine whether they will be able to meet our requirements prior to the submission of any application.
- 2.8 Members are requested to consider and approve the introduction of the Charitable Collections Policy. A copy of the Policy is attached.

### **3. MINOR VARIATIONS**

- 3.1 It is requested that any future minor variations to the Policy are delegated to the Commercial Services Manager.

## **CHARITABLE COLLECTIONS POLICY**

### **1. INTRODUCTION**

#### **1.1 HOUSE TO HOUSE COLLECTIONS**

- 1.1.1 House to house collections are governed by the House to House Collections Act 1939 (the Act) and the House to House Collections Regulations 1947, as amended.
- 1.1.2 As a general rule, house to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by the Licensing Authority which is North West Leicestershire District Council.
- 1.1.3 The definition of 'collection' extends beyond requests for money, to include the sale of magazines, requests for unwanted clothing and household items, visits to persuade persons to buy goods etc where any part of the proceeds may go to charity.
- 1.1.4 The only exception to the general rule is organisations that have been granted an Exemption Certificate by the Home Office under the provisions of the House to House Collections Act 1939. This Certificate allows an organisation to collect in the District without applying for a licence from the Licensing Authority. The organisation will not be exempted from the regulations or provisions of the Act and the organisation must inform the Licensing Authority of the dates and areas of any planned collections.

#### **1.2 STREET COLLECTIONS**

- 1.2.1 The Licensing Authority is empowered under Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 to license collections made in 'any street or public place' for 'charitable or other purposes'.
- 1.2.2 'Street' is defined as including any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.
- 1.2.3 The definition of a 'public place' will include the entranceways to shops. Although the foyer of a supermarket could be considered to be behind 'closed doors' and subject therefore only to the discretion and approval of the manager, any collector straying outside and/or into the car park would require a licence.
- 1.2.4 The Charitable Collections (Transitional Provisions) Order 1974 sets out model street collections regulations which have been adopted by the Licensing Authority.

### **2. AIMS**

- 2.1 The aims of the Licensing Authority in respect of the licensing of charitable collections are to:
- Safeguard the interests of both public donors and beneficiaries;
  - Facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met; and

- Prevent unlicensed collections from taking place.

### **3. OBJECTIVES**

3.1 In order to achieve its aims in respect of licensing of charitable collections, the Licensing Authority has identified the major issues and sought to tackle them through this Policy with the intention of:

- Ensuring impartiality and fairness in determining applications;
- Accommodating all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after;
- Providing equality of opportunity for would-be collectors;
- Avoiding causing undue nuisance to the public;
- Setting fair maximum limits for one applicant;
- Achieving a fair balance between local and national causes;
- Forming links and improving communications with other organisations with a direct or indirect involvement in the licensing and administration of charitable collections such as the police, Trading Standards, the Charity Commission, parish councils and local charitable institutions, etc.

3.2 This Licensing Authority recommends that all organisations adhere to the Institute of Fundraising's Code of Fundraising Practice. A copy of this code of practice can be found at [www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)

### **4. HOUSE TO HOUSE COLLECTIONS**

#### **4.1 GENERAL PRINCIPLES**

4.1.1 Charities must be registered with the Charity Commission or be a charitable organisation based within the District of North West Leicestershire.

4.1.2 Wherever possible, two organisations shall not be permitted to collect in the same area on the same day. Applications will be dealt with on a first come first served basis.

4.1.3 In general, organisations shall not be permitted to hold more than two collections throughout the District or part thereof during one calendar year. This shall be at the discretion of the Licensing Enforcement Officer.

4.1.4 Where further requests are received from exempted charities to collect on dates which have already been allocated, a formal request will be made for them to consider an alternative date.

4.1.5 Applications will only be accepted for charitable collections to be held in the current or next calendar year.

4.1.6 At least 75% of the total proceeds of the collection must be given to the charity or cause. No more than 25% of the total proceeds of the collection can be deducted by the organisation for expenses/costs relating to the collection. Applications will be decided on their own merits.

4.1.7 The applicant must forward a financial return form to the Licensing Authority within one month of the date of the collection showing details of the monies collected. No licence will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

## 4.2 APPLICATION PROCEDURE

4.2.1 The Licensing Authority operates a diary system to log in collections therefore the applicant is encouraged to contact the Licensing Authority before submitting an application in order to check the available dates for any collection.

4.2.2 Applications are to be made in writing on the form provided together with the information requested. Where possible, the use of electronic forms will be encouraged.

4.2.3 Applications must be received on the first day of the month preceding that in which the collection is proposed. In order for the necessary checks to be carried out and to leave time for the necessary prescribed badges and certificates to be ordered and received from Her Majesty's Stationary Office (HMSO), it is advised that applications are submitted a minimum of 3 months before the proposed date of collection. Any applications received less than the 28 days before the proposed first date of collection will be declined. This requirement may be waived in exceptional circumstances at the discretion of the Licensing Enforcement Officer.

4.2.4 The following information must be submitted with the application:

- Literature about the organisation;
- Copy of published accounts for the last two years;
- Copy of statement of accounts from the last three or four collections carried out (including collections held in other Licensing Authority areas);
- Letter from the charitable organisation authorising you to undertake a collection on their behalf, if you are not an official of the organisation; and
- An agreement or contract details with any registered charity or individual benefiting from this collection.

4.2.5 Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant to assist in determining the application. The failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.

4.2.6 Applications will be considered by the Licensing Authority on their respective merits and the Licensing Authority will either:

- (a) Issue a permit specifying the requested date and location; or
- (b) Refuse to issue a permit on the statutory grounds.

4.2.7 The Licensing Authority can refuse or revoke a licence for various reasons including:

- To limit the number of collections in line with this Policy at the discretion of the Licensing Enforcement Officer;
- If too high a proportion of the proceeds is likely to be spent on expenses;
- If not enough of the proceeds are to be given to the charity or cause;
- If incorrect information was provided on the application form;
- If the promoter or any other person involved in the collection has been convicted of certain criminal offences i.e. burglary, blackmail or fraud.

4.2.8 There is a right of appeal to the Secretary of State against the refusal or revocation of a licence within 14 days from the date on which the notice is given of the refusal or revocation.

4.2.9 During the collection, the promoter must ensure that collectors are 'fit and proper' persons and that they comply with the regulations. A guide to the house to house regulations is attached to this Policy at Appendix 1.

4.2.10 As soon as possible after the date of any collection (no later than one month after the collection), the promoter must forward to the Licensing Authority a financial return form showing details of the monies collected.

## **5. STREET COLLECTIONS**

### **5.1 GENERAL PRINCIPLES**

5.1.1 Charities must be registered with the Charity Commission or be a charitable organisation based within the District of North West Leicestershire.

5.1.2 Wherever possible, two organisations shall not be permitted to collect in the same area on the same day. Applications will be dealt with on a first come first served basis.

5.1.3 Organisations shall not be permitted more than two permits per year to carry out charitable street collections within the same location on a Friday or Saturday.

5.1.4 In general, organisations shall not be permitted to hold more than two collections throughout the District or part thereof during one calendar year. This shall be at the discretion of the Licensing Enforcement Officer.

5.1.5 No payment must be made to any collector, or to any other person connected with the promotion or conduct of the collection, indirectly or directly, out of the proceeds of the collection without the approval of the Licensing Authority. In general, payments to collectors are discouraged as it is contrary to the objective of maximising income to charitable institutions. Reimbursement of reasonable expenses is generally accepted provided that it is within an acceptable overall proportion of the total collected. All collections will be considered on an individual basis but all payments will be subject to agreement with the Licensing Authority in advance.

### **5.2 APPLICATION PROCEDURE**

5.2.1 The Licensing Authority operates a diary system to log in collections therefore the applicant is encouraged to contact the Licensing Authority before

submitting an application in order to check the available dates for any collection.

- 5.2.2 Applications are to be made in writing on the form provided together with the information requested. Where possible, the use of electronic forms will be encouraged.
- 5.2.3 Any applications from charitable organisations who wish to hold a street collection within Belvoir Shopping Centre, Coalville should be accompanied by a letter from the owners of the shopping centre giving permission for the collection to take place on the relevant date. Their contact details can be found on the application form.
- 5.2.4 Applications shall be received no later than one month before the date on which it is proposed to make the collection. This requirement may be waived in exceptional circumstances at the discretion of the Licensing Enforcement Officer.
- 5.2.5 The application will be considered on receipt and, where appropriate, additional information may be required from the applicant. Applications will be considered and determined on a 'first come first served' basis.
- 5.2.6 Applications will be considered by the Licensing Authority on their respective merits and the Licensing Authority will either:
  - (a) Issue a permit specifying the requested date and location; or
  - (b) Refuse to issue a permit.
- 5.2.7 There are no restrictions as to the grounds for refusing an application for a street collection licence and there is currently no right of appeal against a decision of the Licensing Authority to refuse or revoke a licence for a collection.
- 5.2.8 During the collection, the promoter must not allow anyone to collect money, or sell goods, unless they have been given written authority. The promoter must ensure that all people acting as collectors are fit and proper persons and comply with any appropriate legislation. A guide to the street collections regulations are attached to this Policy as Appendix 2.
- 5.2.9 As soon as possible after the date of any collection (no later than one month after the collection), the promoter must forward to the Licensing Authority a financial return form showing details of the monies collected.

## **6. DIRECT DEBITS**

- 6.1 In relation to street collections, the collections of direct debits for charitable purposes will need to be licensed by way of a street collection permit.
- 6.2 With regards to house to house collections, many organisations do not believe that direct debits fall under the remit of the House to House Collections Act 1939 however the Act defines collection as 'an appeal to the public, made by means of visits from houses to house, to give, whether for consideration or not, money or other property.'



- 6.3 It is the view of this Licensing Authority that direct debits can be classed as the 'giving of money' and therefore direct debit collections would fall under the remit of the above Act and this Licensing Authority requires that all direct debit collections are licensed by way of a house to house collection permit for the non licence exempt charities.

## **7. CONTACT DETAILS**

Anybody wishing to contact the Licensing Authority with regard to this Policy can do so as follows:

In writing to Licensing Department  
North West Leicestershire District Council  
Council Offices  
Coalville  
Leicestershire  
LE67 3FJ

By email to [licensing@nwleicestershire.gov.uk](mailto:licensing@nwleicestershire.gov.uk)

By telephone 01530 454838

By fax 01530 454574

## **DOCUMENT HISTORY**

Draft - Issue 1 – 2<sup>nd</sup> June 2010

ENVIRONMENT DIRECTORATE  
ENVIRONMENTAL HEALTH

**A GUIDE TO THE HOUSE TO HOUSE COLLECTIONS ACT 1939  
AND THE HOUSE TO HOUSE COLLECTIONS REGULATIONS 1947 (AS AMENDED)**

**1. INTRODUCTION**

The provisions of the above Act and Regulations govern house to house collections for charitable purposes. It is important that promoters and collectors are aware of these provisions as offences can result in fines and/or imprisonment.

These notes are intended as a guide to the main provisions of the law. However, they are **not** a definitive statement of the legal provisions and, if in doubt, you should refer direct to the Act or the Regulations, **not** rely on these notes. Copies of the Act and Regulations can be purchased from H M Stationery Office, PO Box 569, London, SE1 9NH or through a book seller.

**2. THE ACT**

- 2.1 It is an offence to promote or make a house to house collection for a charitable purpose without the promoter first obtaining a licence.
- 2.2 The chief officer of police may grant a local exemption certificate if he is satisfied that a collection is local in character and likely to be completed in a short time.
- 2.3 An application for a licence must be submitted in respect of each of the District Council areas within which the collection is intended to take place.
- 2.4 Applications must be made on the prescribed form not later than the first day of the month preceding that in which the collection is proposed to be held. This requirement may only be waived if there are, in the opinion of the licensing authority, special reasons for doing so.
- 2.5 The Council may only refuse to grant a licence on one or more of the grounds specified in the Act.
- 2.6 A licence may be granted for a period normally not exceeding one year.
- 2.7 The Home Secretary may grant an exemption order in respect of collections to be carried out throughout the whole (or a substantial part) of England.
- 2.8 It is an offence to use certificates of authority or badges in any way calculated to deceive the public.
- 2.9 Collectors must give their names and addresses to the police on demand.

### **3. THE REGULATIONS**

- 3.1 Promoters must ensure that collectors are “fit and proper persons” and that they comply with the regulations.
- 3.2 The promoter must issue all collectors with a certificate of authority and a badge and also, if money is to be collected, a collecting box or receipt book clearly marked with the purpose of the collection and a distinguishing number.
- 3.3 The promoter must keep a list of the names and addresses of the collectors to whom certificates of authority, badges, collecting boxes or receipt books have been issued.
- 3.4 The promoter must ensure that certificates of authority, badges, collecting boxes and receipt books are returned by collectors on completion of the collection.
- 3.5 Certificates of authority and badges must be obtained from Her Majesty’s Stationery Office.
- 3.6 Collectors must:
  - (a) Sign the certificate of authority and produce it on demand to the police or householders.
  - (b) Sign the badge and wear it whilst collecting.
  - (c) Return the certificate and badge to the promoter on completion of the collection.
- 3.7 No-one under the age of 16 years may collect money.
- 3.8 No collector shall annoy householders and must leave the premises if requested to do so.
- 3.9 If collecting boxes are being used, all contributions must be placed in the boxes.
- 3.10 If collecting boxes are not being used, a receipt must be given for each contribution and a counterfoil or duplicate retained. These must show the date, name of contributor, amount contributed and the signature of the collector.
- 3.11 Collectors must return collecting boxes and receipt books and all monies collected to the promoter.
- 3.12 The promoter must open collecting boxes in the presence of another responsible person and record the contents of each collecting box or, if receipts are used, check in the presence of another responsible person and that the amount collected is the same as the total value of receipts issued.
- 3.13 The Home Secretary may give permission for an envelope collection. In these cases:
  - (a) Every envelope must have a gummed flap by which it can be sealed.
  - (b) All contributions must be made in the envelopes.
  - (c) The other regulations still apply.

- 3.14 The promoters must furnish accounts of the collection to the Council certified by himself and an independent responsible person acting as auditor within one month of the expiry of the licence. This period may be extended if the Council is satisfied that there are special reasons for doing so.
- 3.15 The accounts must be submitted on the prescribed form and must be accompanied by either the list of collectors and the amount of money in each box or the receipt books **unless** the accounts have been certified by a competent auditor. Even where this is done, they must remain available for a period of 3 months and be submitted to the Council upon request.
- 3.16 The promoter must ensure that all certificates of authority and badges are destroyed when no longer required.

#### **4. DEFINITIONS**

- 4.1 “Charitable purpose” means any charitable, benevolent or philanthropic purpose.
- 4.2 “Collection” means an appeal to the public made by means of visits from house to house to give, whether for consideration or not, money or other property.
- 4.3 “Collector” means, in relation to a collection, a person who makes the appeal in the course of such visits.
- 4.4 “House” includes a place of business.
- 4.5 “Proceeds” means all money and all other property given, whether for consideration or not, in response to the appeal.
- 4.6 “Promoter” means a person who causes others to act, whether for remuneration or otherwise, as collectors for the purposes of the collection.

**REGULATIONS MADE BY NORTH WEST LEICESTERSHIRE DISTRICT  
COUNCIL WITH REGARD TO STREET COLLECTIONS**

In pursuance of section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916, as amended by section 251 and schedule 29 to the Local Government Act 1972, North West Leicestershire District Council hereby makes the following regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within the North West Leicestershire district to collect money or sell articles for the benefit of charitable or other purposes.

1. In these regulations, unless the context otherwise requires -

"collection" means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly;

"promoter" means a person who causes others to act as collectors;

"the licensing authority" means the North West Leicestershire District Council;

"permit" means a permit for a collection;

"contributor" means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;

"collecting box" means a box or other receptacle for the reception of money from contributors.

2. No collection other than a collection taken at a meeting in the open air, shall be made in any street or public place within the North West Leicestershire district unless a promoter shall have obtained from the licensing authority a permit.

3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection; provided that the licensing authority may reduce the period of one month if satisfied that there are special reasons for so doing.

4. No collection shall be made except upon the day and between the hours stated in the permit.

5. The licensing authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.

6. (1) No person may assist or take part in any collection without the written authority of a promoter.

(2) Any person authorised under paragraph (1) above, shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing authority or any constable.

7. No collection shall be made in any part of the carriageway of any street which has a footway; provided that the licensing authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.

8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting -
  - (a) a collector shall remain stationary; and
  - (b) a collector or two collectors together shall not be nearer to another collector than 25 metres;provided that the licensing authority may, if it thinks fit, waive the requirements of this regulation in respect of a collection which has been authorised to be held in connection with a procession.
11. No promoter, collector or person who is otherwise connected with a collection, shall permit a person under the age of sixteen years to act as a collector. Provided that North West Leicestershire District Council may permit persons of fourteen years of age or more to act as collectors where it is satisfied that it is reasonable in the circumstances of a particular collection and that collectors under sixteen years of age will be accompanied by an adult.
12.
  - (1) Every collector shall carry a collecting box.
  - (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
  - (3) All money received by a collector from contributors shall immediately be placed in a collecting box.
  - (4) Every collector shall deliver, unopened, all collecting boxes in his/her possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear, displayed prominently thereon, the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
14.
  - (1) Subject to paragraph (2) below a collecting box shall be opened in the presence of a promoter and another responsible person.
  - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
  - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
15.
  - (1) No payment shall be made to any collector.
  - (2) No payment shall be made out of the proceeds of a collection, either directly or indirectly to any other person connected with the promotion or conduct of such collection for, or in respect of services connected therewith, except such payments as may have been approved by the licensing authority.
16.
  - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the licensing authority -
    - (a) a statement in the form set out in the schedule to these regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and either a qualified accountant or an independent, responsible person acceptable to the licensing authority.

- (b) a list of the collectors;
- (c) a list of the amounts contained in each collecting box;

and shall if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.

- (2) The said person shall also within the same period at the expense of the person and after the certificate under paragraph (1) (a) above has been given, publish in such newspaper or newspapers as North West Leicestershire District Council may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected and the amount of the expenses and payments incurred in connection with such collection. Provided that North West Leicestershire District Council may, if it thinks fit, waive the requirements of the sub-paragraph in respect of a collection in which the total amount collected does not exceed £150.
- (3) The licensing authority may, if satisfied that there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
- (4) For the purposes of this regulation, a "qualified accountant" means a member of one or more of the following bodies:
  - (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants in Scotland;
  - (c) the Association of Certified Accountants; or
  - (d) the Institute of Chartered Accountants in Ireland.

17. These regulations shall not apply -

- (1) in respect of a collection taken at a meeting in the open air; or
- (2) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.