

CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE 4th FEBRUARY 2010

Background Papers, if any, are specified at the end of the Report

2 EU SERVICES DIRECTIVE AND THE IMPLICATIONS FOR STREET CHARITY COLLECTIONS

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RECOMMENDATIONS

To note the report on the EU Services Directive.

To approve the revocation of Regulations 4 and 5 of the Regulations made by Chiltern District Council with regard to Street Collections 1981 with immediate effect.

Relationship to Council Objectives

Objective 1: Efficient and Effective Customer Focussed Services.

Implications

- (i) Not a key decision.*
- (ii) Within the policy and budgetary framework.*

Financial Implications

No direct financial implications at this stage other than staff resources in implementing the provisions of the Directive. The IT changes to facilitate the requirements will support the cost savings to be achieved through the increased use of online applications for licences and permits.

Risk Implications

The EU Services Directive came into effect on 27th December 2009 and so it is a legal obligation on local authorities to comply with its requirements.

Equalities Implications

Removal of restrictions will increase the numbers of charitable groups able to collect in the district and support increased diversity within the voluntary sector.

Sustainability Implications

Removal of restrictions may support the income generation of charitable

organisations and support the sustainability of the voluntary sector.

Report

Background - EU Services Directive

- 1 The EU Services Directive enacted by the Provision of Services Regulations 2009, aims to open up the European internal market to cross-border trade in services by making it easier for service providers to set up business and offer their services in other EU countries.
- 2 It was adopted by the European Council at the end of 2006, and the UK has until 27th December 2009 to implement it. The legislation confers a legal requirement on local authorities and service providers to implement the Directive.
- 3 It imposes a number of requirements on all EU countries, the main ones being to:
 - Screen UK legislation and amend or repeal non-compliant provisions. This has to be reported back on to the Commission by 28th December 2009. The Department for Business, Innovation and Skills (BIS), previously known as the Department for Business Enterprise and Regulatory Reform (BERR) is managing the screening of national legislation to ensure it complies with the directive and local authorities will need to screen local legislation as well as their administrative practices to ensure they comply.
 - Set up the ‘Point of Single Contact’ (PSC) which will enable service providers to find out what they need to do to operate legally in the UK and to complete all necessary formalities electronically. This has been developed by BIS and will be hosted on the existing Business Link website. The implementation of the PSC is required by the directive as service providers need to be able to apply for licences electronically and remotely.
 - Enhance Administrative Cooperation between regulators in the 27 EU countries. Facilitate use of the Internal Market Information (IMI) system and a UK National Liaison Point (NLP). The IMI system will provide the facility for local authorities to make requests or respond to requests from other EU countries regarding the regulation of a service.
 - Ensure consistency in the quality of information provided by service providers and transparency of redress procedures via the setting up of a Consumer Portal.
- 4 Effects of the Services Directive are likely to be felt by every Local Authority and Government Department across the UK. Implementing the Directive effectively will hopefully reduce the administrative burdens on Local Authorities, while enabling consumers in the UK to benefit from a greater

choice of service providers and lower prices. Businesses from other EU countries should be able to trade more easily in the UK, similarly UK businesses should find it easier and faster to enter and expand into EU markets. The direct consequences that the Directive has for Local Authorities can be divided into four areas. These concern:

- The screening and possible adjustment of the existing legislation and the authorisation schemes in them that are related to the relevant services.
- The electronic completion of procedures.
- Administrative Cooperation.
- Regulations in connection with the rights of recipients of services.

5 Licence applications, authorisation schemes, approval regimes, regulations and administrative practices can be specific to a Local Authority. They therefore need to be checked to ensure that they comply with the Directive's criteria.

6 Authorisation schemes must be:

- a. Non-discriminatory (apply equally to providers from all EU countries);
- b. Proportionate (must not be more stringent or onerous than is necessary to tackle the particular problem it is designed to address);
- c. Necessary (justified by some genuine underlying policy objective);
- d. Justified by overriding reasons relating to the public interest; these are defined within the Directive and include those of public policy; public security; public safety; public health; the protection of consumers; recipients of services and workers and fairness of trade transactions.

7 If Local Acts or byelaws apply in our area, we must ensure that there are no unnecessary barriers to service provision.

Implications for Charitable Street Collections

8 As part of the screening process, it was identified that local regulations enacted in 1981 (*Appendix 2*) governing the collection of money or selling of articles in the street for charitable purposes create a restriction on the days and hours that such collections or sales can take place (Regulation 4) and limits the collection to nominated streets or public places as thought fit (Regulation 5).

9 These restrictions were imposed in order that such collections or sales do not inconvenience or annoy any person.

10 Therefore it is considered that there are no justifiable overriding reasons of public interest to continue with these restrictions and therefore it is

recommended that Regulations 4 and 5 of the local Regulations are revoked with immediate effect.

- 11 The implications of this could potentially be the increased number of charitable street collections in a geographical area at any one time. However, failure to comply with the EU Services Directive will technically be an infringement of the Directive and the local authority may be singled out as non-compliant when the peer review takes place. The authority may also face action by a service provider for not processing applications as legitimately expected.

Background Papers: None
