



## Licensing Committee agenda

Date: Monday 12 December 2022

Time: 6.30 pm

Venue: The Paralympic Room, Buckinghamshire Council, Gatehouse Road, HP19 8FF

### Membership:

D Barnes (Vice-Chairman), J Baum, T Green, P Griffin, C Jones, N Rana, J Rush, N Southworth, B Stanier Bt, D Town, J Towns, G Wadhwa, H Wallace (Chairman), D Watson and A Wood

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<b>Agenda Item</b>	<b>Page No</b>
<b>1 Apologies for absence</b>	
<b>2 Declarations of interest</b>	
<b>3 Minutes of the previous meeting</b> To approve as a correct record the Minutes of the meeting held on 26 July 2022.	<b>3 - 12</b>

## **Part A - Statutory Functions**

None

## **Part B - Other Licensing Functions**

<b>4</b>	<b>Hackney carriage and private hire licensing annual review</b>	<b>13 - 30</b>
<b>5</b>	<b>Draft Charitable Collections Policy</b>	<b>31 - 96</b>
<b>6</b>	<b>Date of next meeting</b> Wednesday 1 February 2023 at 6.30pm	

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## Licensing Committee minutes

Minutes of the meeting of the Licensing Committee held on Tuesday 26 July 2022 in The Oculus, Buckinghamshire Council, Gatehouse Road, Aylesbury HP19 8FF, commencing at 6.30 pm and concluding at 7.50 pm.

### Members present

J Baum, T Green, C Jones, N Rana, J Rush, N Southworth, D Town, H Wallace, D Watson and A Wood

### Apologies

D Barnes, P Griffin, B Stanier Bt, J Towns and G Wadhwa

### Agenda Item

#### **1 Apologies for absence**

Apologies were given from Cllrs Dominic Barnes, Paul Griffin, Sir Beville Stanier Bt, Jocelyn Towns and Gurinder Wadhwa.

#### **2 Declarations of interest**

There were no declarations of interest.

#### **3 Minutes of the previous meeting**

The Minutes of the Meeting held on 15th June 2022 were agreed as a correct record.

#### **4 Harmonisation of skin piercing registration requirements and model byelaws for skin piercing activities**

The Licensing Committee received a report on the harmonisation of skin piercing registration requirements and model byelaws for skin piercing activities. This report sought Members' approval for the adoption of model byelaws for the safe practice of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis across the whole district.

Currently Aylesbury, Chiltern and Wycombe legacy areas had adopted the provisions of sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982, which required the registration of businesses and persons who perform skin piercing namely tattooing, ear piercing, electrolysis and acupuncture. As part of a consolidation exercise, it was recommended that the provisions of sections 14 to 17

inclusive of the Act be adopted across the Buckinghamshire area.

At present, the Buckinghamshire area had existing byelaws from legacy council areas which dealt with the hygiene practices and procedures in relation to some or all of the practices of acupuncture, electrolysis, ear piercing, tattooing, cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing. However, these were not consistent across the whole of the Council area. A draft byelaw based on the consolidated set of model byelaws, which had been produced by the Department of Health, was attached at Appendix 1. It was recommended that all existing byelaws from the legacy council areas in relation to semi-permanent skin-colouring and cosmetic piercing, acupuncture, ear piercing, electrolysis and tattooing or related be revoked and replaced by the consolidated set of model byelaws for the Buckinghamshire Council area.

If sections 14-17 of the Act and then the consolidated byelaws were not adopted, then there might be some members of the public who would not be adequately protected from unregistered businesses. By extending the range of activities that come within the registering regime, greater protection from the transmission of blood borne virus infections would be provided and improved enforcement provisions adopted.

As part of the adoption and confirmation processes for byelaws, the Council would be required to publish public notices as a one off exercise in local newspapers. Whilst the adoption and implementation processes for both the requirement to register business and byelaws would incur a cost to the Council, this would be met from within existing budgets.

If adopted, as well as the statutory requirements, such policy changes would be publicised on the Council's web pages and existing businesses would be notified. Existing skin piercing businesses had already been notified of the potential change in policy as part of communication relating to the harmonisation of the registration fees.

If approved by Full Council on 21<sup>st</sup> September 2022, the statutory implementation process after adoption of the registration requirements would be completed, new registration requirements policies would be created/extended pending formal implementation and related byelaws for cosmetic piercing, semi-permanent skin colouring, acupuncture, ear-piercing, electrolysis and tattooing would be drawn up in line with the consolidated model byelaws. An application to the Secretary of State would be made for confirmation of such byelaws covering the Buckinghamshire Council area and that once confirmed, related existing legacy byelaws would be revoked.

Members were invited to ask questions of officers. In response to a question about how many businesses there were in Buckinghamshire which offered skin piercing services, the Committee was advised that there were approximately 350 premises and 870 operators. It was noted that there could be a number of operators within

one premise.

Following a query regarding what had happened previously in the South Bucks legacy area, officers explained that whilst the adoption of the registration provisions of the act went through the relevant Licensing Committee, the byelaws were then not confirmed by the Secretary of State. Therefore, whilst there was a requirement to register in the South Bucks legacy area, the actual byelaws were not adopted.

In response to a question regarding how many officers there would be to enforce the requirements of Sections 14 to 17 of the Act and the byelaws, it was confirmed that there were 12 Environmental Health officers. It was noted that not all of these 12 were fulltime employees and their role was primarily food hygiene and covering reactive work in terms of health and safety. The Committee was advised that with all new registrations, an officer would carry out an inspection of the premises, assess the new operator in terms of experience and qualifications and go through the operations with them to ensure safe practice. A Member questioned whether it would be beneficial to have more officers to carry out this work as it seemed resource intensive.

With regard to finding unregistered businesses, it was noted that Environmental Health officers, whilst working in their local area, would often see if a new business had started up. Also, existing businesses would often inform Environmental Health if they became aware of a new business which wasn't registered. In relation to unregistered mobile operators, officers discovered unregistered mobile operators through complaints, the planning service or by looking at social media for advertisements.

It was confirmed that the penalty for not registering was a level 2 offence in the Magistrates Court, which would result in a fine of £500. A concern was raised that this fine was not high enough to encourage businesses and operators to be registered. In response, officers explained that this fine was set down in legislation and therefore the Council had no powers to change this. If the operator was operating in an unsafe way, then the Council could use the provisions set out in the Health and Safety at Work Act, under which there were greater penalties.

A Member queried whether an operator needed a recognised qualification in order to carry out skin piercing activities. The Committee was advised that whilst there wasn't a recognised qualification that an operator needed to have, as part of their inspection and assessment of the operator, officers did scrutinise operators, including their experience, any qualifications they might have and their practices.

With regard to registration requirements, it was confirmed that if a business changed ownership, that new business would need to register. Also, if a business took on a new operator, that operator would need to be registered.

In response to a question regarding whether there was any harmonisation across the county boundaries with neighbouring authorities, officers advised that whilst they were not aware of what the provisions of neighbouring authorities were, it was

likely the neighbouring authorities would have the same byelaws as the model byelaws which were created by the Department of Health and that the Local Government (Miscellaneous Provisions) Act 1982 (as amended) applied to the whole of England and Wales.

It was noted that if any Members or residents had any concerns regarding the practices of an operator, they should contact Environmental Health.

On a vote being taken the recommendation was proposed by Cllr Wood and seconded by Cllr Town and:-

**RESOLVED to recommend to Full Council:**

- 1) That the Council resolve to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) in relation to Acupuncture, Tattooing, Ear-Piercing and Electrolysis to apply to the Buckinghamshire Council area.**
- 2) That following the implementation period for the resolution to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous) Provisions Act 1982 (as amended) the Council resolve to adopt the model byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis which appear at Appendix 1.**

*Note: Cllrs David Watson, Joseph Baum and Nick Southworth joined the meeting after the commencement of this item and therefore did not take part in the vote for this item.*

## **5 Harmonisation of animal licensing fees and charges**

In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, was responsible for authorising businesses that provide animal activities and ensuring that these activities meet statutory licensing and welfare standards that were prescribed by DEFRA. In addition, the Council was also responsible for licensing kept animals that were defined as dangerous wild animals under the Dangerous Wild Animals Act 1976 and for the licensing of zoos under the Zoo Licensing Act 1981. The Council was currently operating different charging structures for these licence activities across the legacy council areas. This report sought approval of a single harmonised fee structure for animal licensing activities across the Buckinghamshire Council area.

The Council's constitution provided delegated responsibility to officers to set fees but recognised that it may be appropriate, under consultation with the portfolio holder, to refer a decision to the relevant Committee. Given the level of the changes proposed, it was considered that the Licensing Committee should review the proposed fees and charges and decide on the level to be set. There was no statutory requirement for public consultation when setting fees under the Acts and the proposed fees and charges were included within the report solely for the purposes

of consideration and approval by the Committee. Fees should be set at a level to ensure full cost recovery whilst also being fair and providing value for money for the businesses. Councils were required to take a reasonable and proportionate approach and should aim to set a fee level that was sufficient to cover the cost, but not make a surplus.

The general methodology behind the review of these fees was determined by the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'. The core principles in the LGA guidance were that fees should be non-discriminatory; justified; reasonable and proportionate to the cost of the processes associated with a licensing scheme; clear; objective; made public in advance; transparent; and accessible. It was an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse.

A comprehensive review of the cost of delivering animal licensing services had been carried out and new fees were being proposed that reflected both the full staffing costs of running the service as well as the support service costs. The proposed fees and charges were provided at Appendix 1. The proposed Buckinghamshire Council fees had increased considerably on what was previously set for the legacy Aylesbury Vale and Chiltern and South Bucks areas, largely because of no significant review occurring of the regime since its initial introduction in 2018 when fee setting would have been wholly anticipatory.

Benchmarking of the proposed fees was undertaken with neighbouring local authorities, and with other licensing authorities where fee review had taken place since the introduction of the legislation in 2018. Current fees charged in the legacy district council areas, and the proposed fees and benchmarking against other local authority areas were attached at Appendix 2 and showed that there was significant disparity across local authority areas in terms of the fee levels charged. It appeared that many local authorities, as was the case for the legacy Buckinghamshire council areas, had not carried out full fee review since the Regulations were introduced in 2018.

As it appeared that many local authorities had not reviewed their fees since the introduction of the legislation in 2018, the benchmarking exercise was extended to include authorities where an internet search indicated that a review had taken place (Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond) to provide comparative figures. A comparison of the proposed fees and charges with authorities that had reviewed their fees since 2018 was attached as Appendix 3. Where fees had been reviewed in other local authority areas, generally the proposed fees for Buckinghamshire compared relatively favourably, with the majority of the proposed fees lower than those in place in Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond.

If approved, the fees would come into effect on the 29<sup>th</sup> August 2022 to provide time for the Licensing Service to notify current licence holders of the change in

advance of it coming into effect, and to make the necessary website and system changes.

Members were invited to ask questions of officers. In response to a query on what a black buck was, as mentioned in paragraph 2.9 of the report, officers explained that a black buck was a type of antelope and it was considered dangerous due to its very sharp horns.

With regard to the duration of an animal licence, the Committee was advised that animal licences ranged from 1-3 years, dependent upon the level of compliance and welfare standards adopted by the business. The fee was the same whether it was for 1 or 3 years as the cost of the inspection and issuing the licence was the same.

It was noted that all operators were subject to an inspection prior to the granting of a licence and were then subject to one unannounced visit within the term of the licence. Premises with lower levels of compliance at inspection were subject to additional scrutiny during the licence period which could be by way of ad-hoc visits and/or contact. In addition, officers would carry out additional visits to a licensed premises as a result of intelligence or information received and at the request of an operator to vary their licence, for example to increase animal numbers or species. Officers also worked closely with current and future business operators to support and advise them regarding statutory requirements and compliance.

Following a query about how the Licensing Service gathered information about unlicensed breeders and possible illegal or unregulated activity, the Committee was advised that such information often came from complaints or through intelligence from environmental health, for example via noise complaints. Licensing officers also did checks on social media and platforms like 'Pets4Homes'. Licensing officers were able to do data requests to obtain intelligence from 'Pets4Homes' when investigating unlicensed breeders. There was also an intelligence report form, which could be submitted to HMRC if licensing officers find evidence of someone not lodging their profits with HMRC.

In response to a comment that sometimes it was difficult to know whether a licence was required when breeding a family pet, officers explained that it depended on whether they were acting commercially and that the HMRC's '9 badges of trade' was used as guidance to help determine this. Cases were assessed on a case by case basis to determine if they were operating like a business and trying to make a profit. It was noted that dog grooming did not require a licence.

In response to a concern, which was raised regarding the fact that there had been no public consultation on the proposed changes to fees, officers reiterated that there was no statutory requirement for public consultation when setting fees under the Acts. A Member commented that even though it was not a statutory requirement, as long as the costs of carrying out a consultation was not too high, they would find it beneficial if operator views were available the next time the charges were to be reviewed.



Following a question regarding what the historic budget positions for animal licensing had been in the legacy areas, it was noted that there was limited clarity on the historic budget position for animal licensing, as financial information prior to the formation of the new Council was not easily available. In addition, animal licensing continued to be delivered in different Directorates up until October 2021. The proposed fees had been set based on an understanding of the existing service activity and costs and the anticipated activity and costs going forward.

In response to a concern that the proposed fees seemed to be a lot higher than other local authorities such as Central Bedfordshire, officers advised that it was difficult to compare animal licensing fees consistently across local authorities because local authorities charge quite differently for the regimes and some of them split the fee and charge the initial part of the licence fee and then charge another fee on the granting of the licence. There was a considerable difference in the amount of work and associated activity required for each regime (based on time taken and volume of premises). Therefore, where fees, as shown in appendix 2, were all the same level across the regimes, as was the case with Central Bedfordshire, it was indicative of fees that were probably set at the start of the legislative regime when limited information was available to inform setting and had then not been reviewed since. Buckinghamshire was now a reasonably large animal licensing authority and some of the authorities which it was being compared with were smaller in nature and therefore reviewing their fees for animal licences might not be such a priority for them. As was shown in appendix 3, where fees had been reviewed in other local authority areas, generally the proposed fees for Buckinghamshire compared relatively favourably.

Officers reiterated that the proposed fees had been set to cover the cost of delivering animal licensing services in Buckinghamshire and had not been set to make a profit. If the Committee decided not to increase the fees as proposed, the Service would continue to operate at a loss.

With regard to the proposed timing of the commencement of the fees, it was noted that most animal licence renewal applications were received by the Licensing Service in September and October and therefore harmonising fees prior to this peak in demand would help to provide a consistent service across the County area and ensure that the Council was effectively covering the costs of the activity and service provided.

In response to a concern raised that operators might not have budgeted for the increase in fees, officers advised that it was hoped that most operators would be able to cover the costs as they were operating as commercial businesses that make a profit. The Service was always mindful of working with operators if they faced any barriers or issues, but the fee would form part of the application process so would need to be paid in order for the application to be deemed valid.

Following a comment regarding the importance of ensuring that businesses and operators were informed of any changes to the fees as quickly as possible, officers

assured the Committee that they would provide information electronically to businesses and operators as soon as possible after the meeting if the proposed fees were to be approved. The Council's relevant webpages would also be updated. In addition, following a suggestion from a Member of the Committee, officers agreed to notify all Members of the Council of the changes if approved.

In relation to reviewing the fees, officers explained that because of the duration of the majority of the licences would be for three years, the Council would do a full review on a three year rolling basis in order to capture those enforcement and compliance costs over that period. A lighter touch review would also be undertaken annually. Where appropriate an increase would be applied to the fee in line with RPI to recover related increased costs to the Council. If another inflationary measure was prescribed by Government in the future, then this would be applied to the fee to recover related increased costs to the Council. The Committee agreed that, whilst a full review would take place in three years' time, an update report, showing the results of the lighter touch review, should be submitted to the Licensing Committee in a year's time. This was so that the Committee could ensure that there was no profit being made.

With regard to the Animal Welfare (Kept Animals) Bill, which was currently progressing through Parliament and was at report stage prior to third reading in the House of Commons, the Committee was advised that if the Bill was to become law as drafted it would introduce further legal requirements and activities which were likely to fall to local authorities to carry out. These would include plans to tackle puppy smuggling, compulsory cat microchipping, the expansion of existing licensing regimes to include animal sanctuaries and rescue centres for cats, dogs and horses and changes to dangerous wild animal legislation on the keeping of primates, which would mean a new licensing regime in this area. The Service continued to closely monitor the progress of the Bill, as if it was to become law there could be a need for significant additional skilled staff resource requirements, as well as the introduction of new inspection and fee regimes.

Following a request for information on what the Council's responsibilities were in relation to the Dangerous Dogs Act 1991, officers confirmed that they would ask colleagues in Environmental Health and would forward the information onto Members of the Committee after the meeting.

On a vote being taken the recommendation was proposed by Cllr Green and seconded by Cllr Southworth and:-

**RESOLVED that the proposed animal licensing fees and charges for Buckinghamshire, set out in Appendix 1, be approved. The new fees and charges to come into effect from the 29<sup>th</sup> August 2022.**

**6 Date of next meeting**

Post Meeting Note: the next meeting would be held on 09 November 2022 at 6.30pm (the meeting which was scheduled for 06 September 2022 had been cancelled).

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## Report to Licensing Committee

**Date:** 12<sup>th</sup> December 2022

**Title:** Hackney carriage and private hire licensing annual review

**Author(s):** Simon Gallacher, Principal Licensing Officer

**Recommendations:**

1. To note the contents of this report.

### **1. Background**

- 1.1 Prior to service alignment and the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy"), the Licensing Service committed to providing reports to the Licensing Committee related to service delivery and Policy impact. In June 2022 the Committee received the first enforcement update report. This is the first annual report, focusing on the period 6 September 2021, the date of Policy implementation, through to 30 September 2022.
- 1.2 The report provides an overview of application outcomes, an update on enforcement activity, key changes to service provision and improvements in service delivery, legislative changes and other matters considered to be of relevance or interest to the Committee such as communication with the trade, updates on safeguard training and English language assessments.
- 1.3 The report also contains an overview of hackney carriage and private hire related matters on the horizon that are likely to impact the service and the trade over the coming year.
- 1.4 Financial considerations such as income, expenditure and other budgetary matters have been excluded from the report. A separate report is being prepared for consideration by the Licensing Committee early in 2023 and this information will form the basis for licence fee review.
- 1.5 As the first report of this nature, the Licensing Service welcomes feedback from Committee Members on its content and suggestions for any appropriate amendments.

## **2. Main content of report**

### **Licence applications**

- 2.1 Appendix 1 shows details of vehicle, driver and operator applications received per month for the reporting period, together with an indication of the final outcome or status of the application. The final column shows the number of licences expiring each month, where an application for renewal had not been submitted prior to the expiry date.

### **Vehicles**

- 2.2 The Council received a total of 2770 applications for hackney carriage and private hire vehicle licences, approximately 61% of these were renewal applications. It should be noted that in accordance with the new Policy, replacement vehicles are now classified as new vehicle applications, as are applications submitted after the expiry date. Consequently, whilst the rate of renewal may appear lower than anticipated, many of the new licence applications are granted to previous licence holders.
- 2.3 Approximately 84% of the applications were subsequently granted. 45 were refused, as reported to the Licensing Committee on 15<sup>th</sup> June 2022, most of these refusals relate to vehicles which have been classified as category S insurance write off vehicles. 321 applications are shown as rejected. Applications are typically rejected because incorrect documents have been submitted and/or application forms have been incorrectly completed. 37 applications were later withdrawn and 50 remain outstanding because of ongoing enquiries and enforcement activity.
- 2.4 In accordance with the Council's Cabinet performance reporting requirements, the Licensing Service now aims to process vehicle applications and issue the licence and plates within 10 working days from the date a valid application is received. This excludes incomplete applications where documents are missing or applications that require further investigation before a decision can be made.
- 2.5 For period Q4, December 2021 to March 2022, when this performance indicator was first introduced, the average processing time was 7.5 days. The subsequent periods Q1 and Q2 have seen a significant improvement in the average number of days to process valid applications. Efficiencies in processing procedures have led to improved turnaround times and licences and plates are now typically issued within 4 days of receipt of a valid application.



*Number of working days to process vehicle applications 2021/2022-23.*

### **Drivers**

- 2.6 The Council received a total of 1258 applications for hackney carriage and private hire driver licences during the reporting period, 67% of which were renewal applications. As with the vehicle applications, applications received after the expiry date are treated as new applications, so the number of existing drivers applying to retain a licence is higher than the renewal figure suggests.
- 2.7 As also with the vehicle licences, approximately 84% of driver licence applications were subsequently granted. 16 applications were refused, the grounds for which are summarised in the table shown as Appendix 2. 124 applications were rejected, usually because the applicant failed to submit the correct documents. 12 applications were later withdrawn and 52 remain outstanding because of ongoing enquiries and investigations.
- 2.8 Whilst there is no formal performance indicator set for driver applications, the Licensing Service aims to process all valid applications within 10 working days, unless the application needs to be passed to an officer for investigation and a decision. Since April 2022, the average processing time for valid applications is 5.3 working days.

### **Operators**

- 2.9 The Council received a total of 148 applications for private hire operator licences during the reporting period, of which 73 were granted. A significant number, 48, were rejected; this is mainly attributable to applicants failing to supply the correct documentation. 73% of valid applications were granted. No applications were refused and 9 were withdrawn. 18 applications remain outstanding due to ongoing enquiries and investigations.
- 2.10 The Licensing Service does not currently have a specified period to determine operator applications, although the service plans to introduce this soon. Operator applications are considerably more complex than vehicle and driver applications and generally require a site visit and additional enquiries before an application can be granted so the determination period is usually longer than for vehicles and drivers.

## Enforcement overview

- 2.11 In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work is usually in response to incident reports and complaints received from members of the public, other agencies within and external to the Council, and from members of the taxi and private hire trade. Proactive work is typically pre-arranged activities, often based on intelligence, and may involve targeting locations and/or activities such as large events, areas used by the potentially vulnerable such as schools, or specific operations such as “plying for hire” and multi-agency visits.
- 2.12 227 recorded complaints were received by the Licensing Service during the reference period in relation to hackney carriage and private matters. 94 related to drivers, 111 to vehicles and 22 to operators. Since January 2022 complaints are recorded in the categories as shown in the table below, which summarises the 184 complaints received since that date:

Category	Number of complaints
Driving standards	57
Behaviour	42
Safeguarding concerns	7
Parking	35
Vehicle condition	14
Other	29

- 2.13 The licence service also records investigations. These are matters of concern that are not reported as complaints but warrant further investigation by Council officers. Investigations are typically instigated because of:
- Concerns identified during the application process
  - Licence holders self-reporting, such as convictions and accidents.
  - Pro-active enforcement by Council officers.
  - Reports received by various sources of intelligence such as the police and other Council departments.
- 2.14 In the last report to the Licensing Committee for the period 6<sup>th</sup> September 2021 to 31<sup>st</sup> March 2022, 61 investigations had been instigated in respect of drivers and operators. A further 83 investigations were instigated for the remainder of the



reporting period. Of the 144 total investigations instigated, 119 were in respect of drivers and 25 related to operators.

- 2.15 Further to the 8 revoked drivers reported for the period 6<sup>th</sup> September 2021 to 31<sup>st</sup> March 2022, another 9 drivers have been revoked within reporting period, 4 with immediate effect. The grounds for revocation are summarised below:

Driver 1 May 22	Arrested in connection with a burglary. Failed to report arrest to the Licensing Service.
Driver 2 May 22	Motoring offence, driving without correct insurance cover (IN10). Previous prosecution for failing to carry an assistance dog. Motoring conviction, SP30, within 5 years. Failed to notify Licensing Service. Previous warning for breach of conditions, not displaying livery.
Driver 3 May 22	History of drug use. Complaints of inappropriate conduct and behaviour and poor driving standards. False declaration on medical certificate. Licence revoked with immediate effect.
Driver 4 May 22	Conviction for possession of illegal drugs. Failed to notify the Licensing Service of the above.
Driver 5 June 22	Multiple complaints about poor/dangerous driving standards. Licence revoked with immediate effect.
Driver 6 June 22	Allowed an unlicensed driver to drive licensed vehicle to fulfil booking for hire.
Driver 7 July 22	Motoring offence, mobile phone use offence (CU80). Motoring offence, speeding (SP30). Appeal pending.
Driver 8 July 22	False declarations on driver medicals. Safeguarding concerns – exercised poor judgement in relation to passenger safety. Licence revoked with immediate effect. Appeal pending.
Driver 9 Sept 22	Under investigation for alleged sexual offence. Licence revoked with immediate effect.

- 2.16 During the reporting period, officers from the Licensing Service have continued to conduct reactive and proactive enforcement visits. Officers have conducted vehicle

checks at school premises during drop-off/pick up times, undertaken pro-active high visibility “walkabouts” in town centre areas, performed observations at hackney carriage ranks and attended several large scale events, including the British Grand Prix at Silverstone and the Whizz Fizz festival in Aylesbury.

- 2.17 Officers have prioritised visits to operating bases to ensure that operators understand and are compliant with the new Policy requirements.
- 2.18 More recently officers have been conducting spot checks on the newly authorised vehicle testing centres to ensure the Council’s high standards for checks are being maintained and to assist with any queries.

### **Appeals**

- 2.19 Further to the enforcement report of 15<sup>th</sup> June 2022, which detailed 2 appeal hearings heard during the reference period, a further 5 appeals have been determined during the period 1<sup>st</sup> April to 30<sup>th</sup> September 2022.
- 2.20 In February 2022, Magistrates allowed an appeal, overturning the Council’s decision to revoke a driver’s licence on the basis that the driver had been dishonest and demonstrated poor standards of driving. On 27<sup>th</sup> June 2022 the magistrates court provided their reasons for agreeing to allow an appeal against the revocation of a driver’s licence. They did not support the conclusions of the licensing officer in relation to the driver’s driving standards and his honesty. The Court indicated that it proposed to award costs against the council, so a figure of £3062 plus VAT was agreed in order to limit the Council’s exposure.
- 2.21 On 29<sup>th</sup> June 2022, the Magistrates heard an appeal against the Council’s decision to refuse to an application on the basis that the applicant had driven a car without insurance. The Magistrates upheld the Council’s decision and costs awarded to the Council of £3035.81.
- 2.22 On 11<sup>th</sup> July 2022, the Magistrates heard an appeal against the Council’s decision to revoke a driver’s licence who was under investigation by the police for a sexual offence. The Magistrates upheld the Council’s decision and costs awarded to the Council of £4,252.66 (including additional recovery costs).
- 2.23 On 18<sup>th</sup> July 2022, the Council agreed by way of consent order to allow an appeal following a previous revocation on basis that driver drove without insurance. It was agreed that the case was exceptional, and revocation was not appropriate. No costs awarded.
- 2.24 On 22<sup>nd</sup> July 2022, the Magistrates heard an appeal against the Council’s decision to revoke a driver’s licence who had been stopped by police driving at 100mph in a 70mph zone with passengers onboard. Whilst they did not criticise the officer’s decision, having heard the matter afresh they accepted the driver’s evidence and allowed the appeal. No costs awarded.

- 2.25 Public safety is the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. When determining whether a person is fit and proper to hold a licence, decisions are made on the balance of probabilities. To ensure public safety remains paramount, as per the Council's Policy and the Department for Transport's [Statutory Taxi & Private Hire Vehicle Standards](#) the Council is not able to give licence holders and applicants the benefit of the doubt. It is important that the Council continues to make decisions it considers that are in the public interest, even if those decisions are later challenged and not found in the Council's favour.

### **Service Improvements**

- 2.26 During the reporting period, the Licensing Service have made some significant changes to working practices to improve service delivery as set out below.

#### **Vehicle testing centre procurement**

- 2.27 Following the formation of the new Council, taxi and private hire vehicle testing continued to be delivered via a variety of private and in-house providers operating under different legacy arrangements. As part of the programme of work to harmonise service delivery, a vehicle testing procurement exercise was undertaken earlier this year with a view to ensuring equivalence of testing arrangements across the Council's area. The tender process was conducted in accordance with the Council's procurement procedures, ensuring the process was appropriate, fair, and transparent.

- 2.28 As a result of the procurement process, 5 garages were awarded contracts:
- 2 in the Aylesbury Vale area (including the Council's in-house testing facility)
  - 2 In the Chiltern and South Bucks area (Chesham and Taplow)
  - 1 in the Wycombe area.

It was intended to provide 2 testing facilities in Wycombe, unfortunately insufficient garages came forward with bids that met the tender requirements. However, Licensing Service calculations indicate that 5 garages are more than adequate to meet the current testing requirements for the Council's fleet of approximately 2100 licensed vehicles. The service also recognises that for resilience purposes it would be desirable to have an additional testing facility in the Wycombe area and as a consequence a further tender process is currently underway.

- 2.29 The new vehicle testing arrangements went live on 17<sup>th</sup> October 2022 and details of the authorised garages, together with contact details, are published on the Council's [web pages](#). Applicants can opt to visit any of the testing stations, where they will receive the same standard of inspection, which includes a MOT and enhanced vehicle inspection (licence compliance check).

#### **Outsourced DBS applications**

- 2.30 In July 2022, the Licensing Service successfully outsourced arrangements for conducting the mandatory enhanced DBS checks on drivers to a third-party supplier. Consequently, drivers are no longer required to attend an initial face to face ID checking appointment at the Council offices. Instead, the required documents are uploaded to the third-party supplier who processes the application, and the driver's original documents are verified by the Licensing Service at the end of the application process. This has led to a significant improvement in processing times as applicants no longer have to wait for appointments with the Service before making their application. The whole driver application process can now be instigated online, which allows applicants freedom to submit applications at their convenience. The process has also led to some efficiency savings for the Council as officers have more time to focus on other aspects of the application process. This has enabled the Service to improve the level of service provided on our telephone lines which feedback from the licensed trade indicated they would welcome.

#### **Online reporting**

- 2.31 The Licensing Service revised the Council's online reporting system, available via the Council's web pages, which now integrates directly with the back-office system used within the service. The online reporting system allows members of the public to notify the service of issues or complaints more easily. Complaints are categorised to help facilitate reporting and identify priority areas for enforcement. Further changes have since been made to add two new categories: "discrimination" and "fare disputes". Thankfully complaints relating to discrimination are low, but the Licensing Service believes it is important that these complaints be readily identifiable and reportable when they occur. Fare dispute complaints are conversely more common so as justify their own category. For the licensed trade, the online system facilitates mandatory reporting of such things as accidents and change of details.

#### **Executive vehicles**

- 2.32 Amendments were made to the procedure for processing executive vehicle applications in September 2022. The application process has been streamlined to improve efficiency following feedback from the licensed trade as follows:
- Renewal applicants are no longer required to routinely resubmit supporting evidence of executive work unless there are concerns.

- A signed declaration form from the vehicle operator is provided instead of a full list of client contracts, booking records and references.
- A minor discrete window card has been introduced to replace the rear licence plate.

### **Communication with the trade**

- 2.33 Since the introduction of the new Policy, the Licensing Service has introduced various ways to ensure the local licensed trade are kept up to date:
- 2.34 A new [Taxi Working Group](#) was set up, involving trade representatives from the hackney carriage and private hire trade, council officers, and other organisations such as disability user groups and the police. The group meets approximately every quarter and discusses a wide range of trade related issues, with a focus on working collaboratively to address those issues.
- 2.35 The Licensing Service publishes a regular electronic newsletter which is distributed via text and email, where possible, to all licence holders. The newsletter contains key points of interest such as pending changes to service delivery, legal changes, trade advice and other items of interest. Latest editions are published on the Council's [website](#).
- 2.36 Licence holders are sent regular automatic reminders in advance of their licence expiry date to help them prepare for their pending renewal application. Drivers receive notifications at 90, 60 and 30 days prior to expiry and are reminded to attend safeguard training, obtain up to date medicals and DBS certificates and book their English language assessment, if required. Vehicle licence holders receive reminders at 6 weeks and 1 month prior to expiry. The service is in the process of implementing similar automatic reminders for operator licence holders.

### **Safeguard training**

- 2.37 In accordance with the Policy all drivers and operators are required to attend child sexual exploitation, safeguarding and disability awareness training. During the Covid-19 pandemic training was being delivered online. Face to face training was reintroduced as of May 2022, which allows a greater number of delegates to attend each session. Training takes place monthly and alternates between Wycombe and Aylesbury Council offices. During the reporting period 1343 drivers and operators have attended these training sessions.

### **English language**

- 2.38 In line with the Policy, all new drivers are required to demonstrate that they have proficient English language skills. Since 6 September 2022, this requirement has extended to all existing drivers, who are required to demonstrate they meet the Council's criteria when submitting their renewal applications. Drivers are only

required to demonstrate this once, either via attending an assessment with the Licensing Service's approved assessors, or by way of documentary evidence.

- 2.39 During the reporting period 223 new drivers and 109 existing drivers have taken the assessment, 262 assessments were conducted in total, which includes 60 retests. The pass rate for the assessment has been 66% of all tests taken, although the pass rate per candidate will be higher as some candidates have taken multiple tests.

#### **Legal changes**

- 2.40 Several new legislative requirements have been introduced during the reporting period which impact the hackney carriage and private hire trade, summarised below:

- 2.41 **The Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022** has introduced two new requirements on licensing authorities. As of 31<sup>st</sup> May 2022, it is compulsory for councils to report concerns about out-of-area licensed drivers coming to its attention if those concerns relate to 'relevant information'. Relevant information is given an extensive definition and essentially covers any matter that calls into question whether an individual can continue to be considered fit and proper to hold a licence. Authorities are required to report these concerns to the authority which licensed the driver within 10 days. The authority licensing the driver then has 20 days to consider whether it is necessary to suspend or revoke the licence and inform the reporting authority of their decision. The second requirement of this legislation has not yet been enacted but is mentioned in the horizon section below.

- 2.42 **The Taxi and Private Hire Vehicle (Disabled Persons) Act 2022** took effect on 28<sup>th</sup> June 2022 and has amended the requirements under the Equalities Act 2010 for the trade, as follows:

- Extends duty to all drivers to carry disabled persons (not just those driving designated vehicles).
- Drivers must provide disabled passengers with reasonable mobility assistance and carry their mobility aids or wheelchair (if safe to do so).
- Drivers (who have been pre-booked) must help disabled passengers to find or identify their vehicle at no extra charge.
- Drivers may not make any additional charge in relation to the above (NB meter cannot be activated until vehicle is ready to depart and must be stopped before unloading starts (McNutt vs TfL)).
- Operators cannot refuse to accept a booking or make an additional charge because a passenger is disabled.
- Licensing Authorities must publish a list of licensed [Wheelchair Accessible Vehicles](#), previously this was discretionary.

- Drivers can apply for an exemption certificate from the Licensing Service to provide mobility assistance, for example on medical grounds (in addition to the existing exemptions relating to the carrying of assistance dogs and drivers of WAVs).

2.43 **The Finance Act 2021** introduced new mandatory HMRC conditionality checks from 4<sup>th</sup> April 2022. All new drivers and operators are required to confirm that they have read the HMRC's guidance before a licence can be granted. Existing drivers and operators are now required to supply a valid tax check code from the HMRC before a licence can be granted. To obtain the check code, applicants are required to inform HMRC how long they have been licensed, their employment status and how they pay their tax. The Licensing Service is required to validate the check code via the HMRC portal but has no access to the individual's tax affairs.

2.44 **The Road Vehicles (Construction and Use) (Amendment) (No. 2) Regulations 2022** amended the law relating to the use of mobile telephones while driving from 25<sup>th</sup> March 2022. Previously the law applied if a hand-held device was used for 'interactive communication', mainly phone calls and messaging. The new law reflects the changes to the way smart phones are now used and includes a wide range of prohibited uses beyond the device being used for interactive communication. It includes illuminating the screen, checking the time, checking notifications, unlocking the device, using the camera, accessing stored data, accessing an application or the internet. There are exemptions for use during an emergency and for making payment for immediate goods and services while the vehicle is stationary, eg paying for parking and use at drive through restaurants. It is also important to note that the law only applies when the device is held in the hand, not in a cradle for example, so it may be used for navigation purposes.

### **Horizon**

2.45 There are a number of matters that are likely to impact the licensed trade over the coming 12 months and these are briefly high-lighted below:

### **Fee review**

2.46 The licensing service has committed to keeping the level of licence fees under review to ensure the provision of service remains cost neutral. Since the introduction of the current licence fees the financial outlook remains challenging and harder to predict than had been previously anticipated. Whilst it was intended to provide a financial report to the Licensing Committee at the earliest opportunity, the challenging nature of the financial landscape has necessitated further work to best ensure the accuracy of data. The service intends to report to the Committee at the meeting of the 1<sup>st</sup> February 2023 with an update on the financial position of the service and a new schedule of proposed application fees for consideration.

### **Fares**

2.47 A new schedule of higher hackney carriage fares was agreed by the Council in August 2022 in response to the significant increase in fuel prices and cost of living. Since this time the cost of petrol has fallen by approximately 11% and diesel by 3%. The Licensing Service will continue to monitor fuel prices but at the present time it is recommended that the fares stay at the current level with a view to conducting a formal review later in 2023.

#### **Best practice guidance and policy review**

2.48 The updated version of the Department for Transport's "Taxi and private hire vehicle licensing: best practice guidance" is due to be published following widespread consultation earlier this year. Whilst the guidance is non-statutory, it would be appropriate for the Council to consider its own Policy content in light of the revised guidance and determine whether changes are necessary. The draft version is significantly longer than the previous version published in 2010, and contains several significant suggestions, including:

- All licensing authorities should develop and maintain an Inclusive Service Plan.
- No upper age limit for vehicles (with potentially more frequent testing).
- To allow factory fitted tinted windows.
- Minimal livery for private hire vehicles (to distinguish them from hackney carriages).

Once the updated guidance is published the Committee will receive a report with details and an assessment of the implications for the Council's Policy.

#### **National database for revocations, refusals and suspensions**

2.49 The Department for Transport are expected to announce the chosen database that will be used to facilitate the mandatory database for storing and recording instances of refusal, revocation, and suspension in relation to driver licences. Under the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, all licensing authorities will be required to actively use this database to search for drivers when an application is made and to record when a driver is refused, revoked or suspended. Currently, there is a non-mandatory database (NR3) hosted by the National Anti Fraud Network, NAFN, which most licensing authorities, including Buckinghamshire, use to search for and record instances when a driver is refused an application or has a licence revoked. The new requirement will make this mandatory and will also include instances when drivers are suspended. The database will go live two months after an announcement is made on the chosen database supplier.

#### **"Safe and suitable" review**

2.50 The Institute of Licensing are currently consulting on a review of the "safe and suitable" guidance. This is an important document that sets out the recommended



approach for determining the extent to which an individual's previous behaviour should be taken into account when considering the fit and proper test for licensing drivers. The guidance is endorsed by the Department for Transport in the "Statutory Taxi and Private Hire Standards" and forms the basis of the Council's "Criminal records and unacceptable behaviour policy" (Appendix 4 of the Policy). The Licensing Service has contributed to this consultation exercise.

Once the Institute of Licensing has concluded its review, the outcome will be reported to the Committee together with any assessment of any potential implication for the Council's own Policy.

### **Taxi rank review**

2.51 The Licensing Service has commissioned an independent review of the taxi rank provision across the Council's area. The aim of the review is to:

- Review current provision and identify potential new locations
- Understand why there is generally low use of ranks (in some areas)
- Consider whether more ranks would generate more usage
- Ensure that a shortage in rank provision is not adversely affecting the public

The Licensing Service will share the findings from the review once it has been completed.

## **3. Next steps and review**

3.1 The Licensing Service will continue to provide update reports to the Licensing Committee in a format and at a frequency agreed by Committee Members.

## **4. Other options considered**

None.

## **5. Legal and financial implications**

5.1 Legal services have had the opportunity to review, comment and contribution to reports as appropriate.

5.2 The preparation of this report presents no additional costs to the Council.

## **6. Corporate implications**

6.1 Protecting the vulnerable – protecting the vulnerable and passenger safety are key aims of the taxi and private hire licensing regime. Reporting of information relating to the regulation of hackney carriage and private hire operations to the Licensing

Committee, provides an opportunity for additional scrutiny to ensure the protection of the vulnerable is at the centre of Council decision making.

- 6.2 Property – N/A
- 6.3 HR – N/A
- 6.4 Climate change – N/A
- 6.5 Sustainability – N/A
- 6.6 Data – N/A
- 6.7 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum whilst also ensuring that the provision of the service is cost neutral.

**Key documents:**

Buckinghamshire Council's [Hackney Carriage and Private Hire Licensing Policy](#).

Department for Transport, [Statutory Taxi & Private Hire Vehicle Standards](#)

Licensing Committee report 15<sup>th</sup> June 2022, [Hackney carriage and private hire licensing enforcement update](#)

Vehicle apps  
Sep 21 to Sep 22

	Received			Granted			Refused			Rejected			Withdrawn			Outstanding			Expired	
	Total	New	Renewal	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew		
*Sep	184	33	150	154	20	134	1			23	9	14	5	3	2	1	1	0	76	
Oct	255	72	183	210	49	161	1	0	1	34	17	17	6	4	2	4	2	2	50	
Nov	224	70	154	195	60	135	0	0	0	27	8	19	1	1	0	1	1	0	58	
Dec	199	59	140	148	43	105	0	0	0	47	14	33	3	1	2	1	1	0	56	
Jan	269	90	179	213	78	135	4	0	4	45	9	36	4	2	2	3	1	2	52	
Feb	175	63	112	142	54	88	12	1	11	15	6	9	4	1	3	2	1	1	53	
Mar	234	96	138	204	89	115	5	0	5	23	7	16	1	0	1	1	0	1	70	
Apr	157	79	78	139	68	71	3	1	2	14	9	5	1	1	0	0	0	0	48	
May	206	107	99	179	97	82	4	1	3	16	5	11	3	2	1	4	2	2	60	
Jun	191	103	88	157	81	76	3	0	3	23	17	6	3	3	0	5	2	3	65	
Jul	194	104	90	171	96	75	4	0	4	14	6	8	1	1	0	4	1	3	53	
Aug	234	96	138	194	76	118	7	1	6	21	13	8	3	2	1	9	4	5	69	
Sep	248	117	131	210	98	112	2	1	1	19	10	9	2	2	0	15	6	9	97	
Totals	2770	1089	1680	2316	909	1407	45	5	40	321	130	191	37	23	14	50	22	28	0	807

\*6 Sep onwards

Driver apps  
Sep 21 to Sep 22

	Received			Granted			Refused			Rejected			Withdrawn			Outstanding			Expired	
	Total	New	Renewal	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew		
*Sep	48	12	36	42	10	32	1	1	0	3	0	3	1	1	1	1	1	1	17	
Oct	77	20	57	61	12	49	3	2	1	7	2	5	5	4	1	1	0	1	33	
Nov	92	18	74	81	11	70	3	1	2	7	5	2	0	0	0	1	1	0	45	
Dec	107	16	91	80	9	71	1	1	0	22	4	18	2	1	1	2	1	1	43	
Jan	114	14	100	104	14	90	1	0	1	7	0	7	1	0	1	2	0	2	41	
Feb	140	24	116	117	16	101	0	0	0	17	5	12	1	1	0	5	2	3	43	
Mar	145	37	108	119	29	90	2	0	2	15	4	11	1	1	0	8	3	5	63	
Apr	7	3	4	6	2	4	1	1	0	0	0	0	0	0	0	0	0	0	39	
May	34	15	19	30	12	18	0	0	0	3	3	0	0	0	0	1	0	1	49	
Jun	98	38	60	91	34	57	1	1	0	4	1	3	0	0	0	2	2	0	79	
Jul	147	57	90	128	46	82	2	2	0	15	8	7	0	0	0	2	1	1	143	
Aug	147	94	53	117	72	45	0	0	0	15	8	7	1	1	0	14	13	1	57	
Sep	101	75	26	79	55	24	1	1	0	8	8	0	0	0	0	13	11	2	74	
Totals	1257	423	834	1055	322	733	16	10	6	123	48	75	12	9	3	52	34	18	0	726

\*6 Sep onwards

Operator apps  
Sep 21 to Sep 22

	Received			Granted			Refused			Rejected			Withdrawn			Outstanding			Expired	
	Total	New	Renewal	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew	Total	New	Renew		
*Sep	6	3	3	4	1	3	0	0	0	2	2	0	0	0	0	0	0	0	1	
Oct	12	4	8	9	1	8	0	0	0	1	1	0	1	1	0	1	1	0	6	
Nov	5	3	2	1	1	0	0	0	0	3	1	2	1	1	0	0	0	0	2	
Dec	2	2	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	2	
Jan	7	4	3	3	2	1	0	0	0	3	2	1	0	0	0	1	0	1	0	
Feb	5	2	3	2	1	1	0	0	0	3	1	2	0	0	0	0	0	0	5	
Mar	44	13	31	25	3	22	0	0	0	13	6	7	2	1	1	4	3	1	2	
Apr	21	6	15	12	2	10	0	0	0	5	2	3	0	0	0	4	2	2	14	
May	9	5	4	4	2	2	0	0	0	2	0	0	2	1	1	1	1	0	1	
Jun	8	5	3	6	3	3	0	0	0	1	1	0	1	1	0	0	0	0	0	
Jul	8	5	3	3	2	1	0	0	0	0	0	0	0	0	0	5	3	2	3	
Aug	8	6	2	1	0	1	0	0	0	4	4	0	2	2	0	1	0	1	1	
Sep	13	13	0	3	3	0	0	0	0	9	9	0	0	0	0	1	1	0	4	
Totals	148	71	77	73	21	52	0	0	0	48	31	15	9	7	2	18	11	7	0	41

\*6 Sep onwards

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## Appendix 2 -

## Driver applications refused between 6th September 2021 and 30th September 22

Application received	Grounds for refusal	Application type
Sep-21	Conviction for battery within last 10 years. Failed to disclose above conviction on application.	New
Oct-21	Insurance offence (IN10) within last 7 years. Refusal decision upheld on appeal 1st July 2022.	New
Oct-21	Caution for affray within last 10 years. Motoring offence, failing to comply with traffic signals (TS10) within last 5 years. Motoring offence, using phone while driving (CU80), within last 5 years. Failed to disclose TS10 or CU80 in breach of licence conditions.	New
Oct-21	Motoring offence, using phone while driving (CU80), within last 5 years. Failed to disclose CU80 in breach of licence conditions.	Renewal
Nov-21	Disqualified from driving (TT99 offence) for multiple motoring offences within last 5 years: 3x MS90 offences, failure to disclose driver details at time of alleged road traffic offence. Failed to disclose above in application form.	Renewal
Nov-21	Motoring offence, using phone while driving (CU80), within last 5 years. Failed to disclose CU80 in breach of licence conditions.	Renewal
Nov-21	Conviction for violent disorder offence within last 10 years.	New
Dec-21	Previously arrested and charged with offence involving illegal sexual activity. Failed to disclose previous refusal of licence application (in relation to the above). Failed to disclose motoring offence, speeding (SP30), on application form. Previous licence history demonstrated inability to comply with the licence requirements.	New
Jan-22	Conviction for assault within last 10 years. Failed to notify of arrest or subsequent conviction.	Renewal
Mar-22	Insurance offence (IN10) within last 7 years.	Renewal
Mar-22	Disqualified from driving, two offences for "totting up" (TT99).	Renewal

Apr-22	Motoring offence, using phone while driving (CU80), within last 5 years. Failed to disclose CU80 in breach of licence conditions.	New
Jun-22	Motoring offence, using phone while driving (CU80), within last 5 years. Failed to disclose CU80 in breach of licence conditions.	New
Jul-22	Motoring offence, using phone while driving (CU80), within last 5 years.	New
Jul-22	Conviction for battery within last 10 years.	New
Sep-22	Motoring offence, using phone while driving (CU80), within last 5 years.	New



## Report to Licensing and Regulatory Committee

**Date:** 12<sup>th</sup> December 2022

**Title:** Draft Charitable Collections Policy

**Author:** Simon Gallacher, Principal Licensing Officer

### Decisions:

1. To review the draft Charitable Collections Policy set out at Appendix 1 and, subject to any recommended amendments, approve the draft policy for consultation with relevant stakeholders and residents.

### 1. Introduction

- 1.1 The Council, in its capacity as Licensing Authority, is required to consider applications and issue permits and licences for charitable collections which take place in public areas and from house to house. There is currently no policy in force covering the new Council area for these activities and it is considered necessary and appropriate for such a policy to be prepared, consulted upon and published in order to ensure that applications for this type of authorisation are considered and determined in a fair, consistent and transparent manner.
- 1.2 The draft policy sets out the legal requirements and application process, along with the Licensing Authority's approach to preventing nuisance to residents and businesses located within the Council area and the enforcement of unlicensed activities.

### 2. Background

- 2.1 The Licensing Authority is required to consider and determine applications for charitable collections in line with the relevant legislation, as specified below:
  - The House to House Collections Act 1939
  - The House to House Regulations 1947
  - The Police, Factories, etc (Miscellaneous Provisions) Act 1916 and as amended by the Local Government Act 1972

- Model Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974
- 2.2 It is recognised that fundraising collections play a vital role in the work carried out by charities and are therefore an important means of both raising money for good causes and also promoting the goals and messages of the collecting charity.
- 2.3 It is equally important, however, to ensure that any charitable fundraising is carried out by bona fide charitable organisations and collectors, that a fair percentage of collection proceeds are donated directly to charitable causes and that no nuisance is caused to businesses and residents as a result of collections.

### **Buckinghamshire Council Policy**

- 2.4 Applications for both street and house to house collections are regularly received by the Council, although only one of the legacy district council areas (Wycombe) currently has policies in place for this type of licensable activity.
- 2.5 It is therefore considered necessary to implement a new policy which sets out the Licensing Authority's approach to considering and determining applications and also in relation to any necessary enforcement action across the whole Council area.
- 2.6 The policy set out at Appendix 1 has been drafted for this purpose and it aims to:
- safeguard the interests of both donors and beneficiaries;
  - facilitate collections by bona fide charitable institutions and to ensure that good standards are met;
  - prevent unlicensed collections from taking place; and
  - prevent nuisance and harassment to residents, businesses and visitors to the Council area.

### **House to House Collections**

- 2.7 House to House collections are regulated by the House to House Collections Act 1939 ("the 1939 Act"), together with the House to House Collection Regulations 1947 ("the 1947 Regulations"). The 1939 Act prohibits the making of house to house collections for charitable purposes except under the terms of a licence issued by the relevant Licensing Authority.
- 2.8 The 1939 Act also gives the Secretary of State the power to grant exemptions for house to house collections in respect of certain charities in England and Wales. An exemption has the same effect as a licence which has been granted for the areas to which it relates.



- 2.9 A house to house collection is defined within the 1939 Act as “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”. Collections are not restricted to domestic properties and can include a place of business.
- 2.10 Although specifically excluded from the ambit of street collections, it is unclear whether proceeds, that is “money or other property” under section 11 of the 1939 Act includes the collection of direct debit information. This type of collection would not have been in existence at the time the legislation came into force. There is no case law on this issue or guidance from fundraising authorities and regulators. There is also inconsistency across local authority policies in relation to whether licences are required for this type of collection.
- 2.11 It is considered that the purpose of regulating charitable collections is to protect residents and particularly the vulnerable, from being exploited and from possible fraudulent requests for donations. As a result, it is the view of officers that direct debit mandate information should be included within the requirement for a licence and the draft policy reflects this requirement.
- 2.12 A charitable purpose is defined as “any charitable, benevolent or philanthropic purpose, whether or not the purpose is charitable within the meaning of any rule of law”. The collection must therefore be one that is made wholly or partly for charitable purposes whether it is for the collection of money, or any other items that may subsequently be sold for money, where either the money or the items are given for charitable purposes.
- 2.13 Collections can be made by individuals cold calling and requesting money or other items at the time of their visit or by leaving bags and / or making requests for donations to be collected at a later specified date. Collections which are made for purely commercial profit are not required to be licensed.
- 2.14 The draft policy sets out the application process, expected application submission timescales and reasons for possible refusal. The policy also specifies restrictions on collection periods and hours plus a prohibition on collections where any notice is displayed preventing cold calling.
- 2.15 There is a statutory right of appeal against the refusal of a licence which lies with the Secretary of State.
- 2.16 In order to prevent nuisance to the public it is intended that only one licence will be issued to any area for any specified period, although this may be in addition to any exemption orders being issued for collections which may be taking place within the Council area.
- 2.17 It is proposed that for the sake of clarity and certainty, collection areas are specified by ward boundaries and a map of these boundaries is provided at Appendix 2 of the

policy. This map will also be provided with every issued house to house collection licence.

- 2.18 Regulations which reflect the House to House to House Collection Regulations 1947 are set out at Appendix 1 of the draft policy. Licence holders and collectors will be expected to comply with these requirements to ensure that any collection is carried out in a lawful manner by properly authorised persons and that all proceeds are properly accounted for. It is intended that straightforward guidance notes will be issued to licence holders in addition to the Regulations.
- 2.19 Many collections are carried by commercial collectors acting on the charity's behalf and it is accepted that this is a necessary aspect of fundraising for charities. In terms of the percentage of the collection proceeds which are required to be donated to charitable causes where collections are carried out in this manner, the current guidance from the National Association of Licensing and Enforcement Officers (NALEO), shown at Appendix 2, is that this is a matter to be determined between the charity and the collecting organisation. In section 5 of their guidance, NALEO refer to Cabinet Office advice which considers that each case must be considered on its own merits and that 'setting an arbitrary minimum percentage of the total value going to charity is problematic'. The guidance goes on to advise that the cost of collecting clothing door to door is substantial compared to the value of clothing collected. The Institute of Fundraising also advise against setting specific percentages to be donated. As a result, the policy specifies that the charity will be required to provide a declaration to confirm that they are satisfied with the amount of the donation.

### **Street Collections**

- 2.20 The Council is empowered under Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 (the Act), as amended by the Local Government Act 1972, to authorise and issue permits for collections made in 'any street or public place' for 'charitable or other purposes'.
- 2.21 Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 allows local authorities to adopt provisions concerning the regulation of street collections in their area. A set of Regulations are set out at Appendix 3 in the policy. These are the "model" street collection Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974 which do not require the approval of the Secretary of State but merely the adoption by resolution. All permit holders and collectors are expected to comply with the requirements of these Regulations which aim to ensure that any collection is carried out lawfully and without causing nuisance to residents and businesses.
- 2.22 There is no legal requirement for the Council to adopt a policy on how it proposes to process applications for charitable street collections and issue permits although it is

considered best practice for the Council to adopt such a policy to encourage consistency and transparency in the way applications for street collection permits are considered and granted.

- 2.23 There is currently no policy covering street collections in the legacy Aylesbury Vale, Chiltern and South Bucks areas and the policy in force in the legacy Wycombe district area has not been reviewed for several years. As a result, applications are currently being determined according to the practices of the legacy area which is resulting in inefficiency for those processing the applications and inconsistency and a possible perception of unfairness for applicants.
- 2.24 It is therefore considered necessary and appropriate to produce a single policy which sets out the Licensing Authority's approach to considering and determining street collection applications along with how such activities will be regulated and enforced.
- 2.25 Permits for this type of collection are generally only issued for one day on specified days of the week. The draft policy also specifies collection hours and locations, aiming to retain collections within town centre areas.
- 2.26 To ensure fairness and equal opportunities, charities are also restricted in relation to the number of permits which can be applied for annually.
- 2.27 To prevent nuisance to visitors and businesses collections are also generally restricted to one per area per day.
- 2.28 It is proposed that the right of appeal against refusal or revocation of a permit is delegated to the Head of Licensing Services.

#### **Site Management Agreements**

- 2.29 As referred to at point 2.10 above, the collection of direct debit information is excluded from the ambit of street collections, although the Chartered Institute of Fundraising (CloF), previously known as the Public Fundraising Regulatory Authority (PFRA), control the collection of this information (collectors are commonly known as "chuggers") through Site Management Agreements which are agreed with the local authority. These agreements specify issues such as collection days, times, locations and any other relevant requirements.
- 2.30 There are currently two Site Management Agreements in place with the CloF covering High Wycombe and Aylesbury town centres. These Agreements are set out at Appendix 3 to this report. It is proposed that, following consultation, revised Agreements will be discussed and agreed with the Clof.
- 2.31 Similar agreements are not currently considered necessary for any other town within the Council area due to the lack of this type of activity or complaints about those collecting direct debit mandate information.

## **General**

- 2.32 The legislation concerning the refusal of applications for house to house and street collections is very specific and only allows certain matters to be taken into account. The draft policy aims to give both applicants and officers clear and robust guidance when determining applications for charitable collections.
- 2.33 Guidance documents relating to charitable collections have been produced by the Fundraising Regulator and the Chartered Institute of Fundraising. References to these documents are provided within the draft policy to assist applicants and provide further information for residents.
- 2.34 There is no fee payable for the processing of applications for charitable collections or for the grant and issue of licences or permits.
- 2.35 To prevent fraud and ensure clarity for residents and businesses, details of all issued licences and permits will be made available on the Council's website.

## **3. Consultation**

- 3.1 If approved by Committee and subject to any suggested amendments, the draft policy will undergo a six week consultation process with all relevant stakeholders, including affected charity organisations, town centre managers, Thames Valley Police, Community Safety officers, residents, businesses, Members, parish councils and Community Boards.
- 3.2 Following the consultation process, a further report will be presented to this committee providing full details of any comments received and amendments proposed as a result.

## **4. Other options considered**

- 4.1 Applications for charitable collections are currently being considered and determined according to the practices of the legacy district council areas or policies where these are in force. This has resulted in inconsistency and possibly perceived unfairness across the council area and a lack of effectiveness or efficiency for those processing the applications.
- 4.2 Although there is no statutory requirement for a policy covering charitable collections, it is considered desirable and necessary to implement one so that the Licensing Authority is seen to be transparent, consistent, fair and open when considering and determining applications for this activity.

## **5. Legal and financial implications**

- 5.1 There is no provision within the legislation for fees to be charged for either processing applications or granting permits or licences for charitable collections.
- 5.2 As a result the cost to the service of processing applications and any necessary enforcement action will need to be borne from the general fund.
- 5.3 The Council currently receives in the region of 150 applications each for House to House collection licences and street collection permits each year. Each application takes in the region of 45 minutes to one hour to process. Permits are issued via email and so there are no postage costs associated with the grant of permits or licences. Complaints in relation to unlicensed collectors are rare and subsequently little enforcement action is generally required.
- 5.4 As stated above, there is no statutory requirement for Licensing Authorities to produce charitable collection policies although it is considered that the Council would be far less likely to be open to legal challenge where a policy is adopted which clearly sets out how applications will be considered and any reasons for refusal.

## **6. Corporate implications**

- 6.1 Protecting the vulnerable – fundraising by means cash and other collections provides an essential source of funding for charity which can be applied to good causes. It is therefore an important means of assisting and protecting those in need and the vulnerable. It is also recognised that there have been increasing instances of fraudulent money collections and it is the duty of the Licensing Authority to ensure compliance with relevant legislation and that any collections are carried out by bona fide collectors who are using any proceeds for the purposes for which they were intended.
- 6.2 Property – N/A
- 6.3 HR – N/A
- 6.4 Climate change – N/A
- 6.5 Sustainability – N/A
- 6.6 Equality – An Equality Impact Assessment Screening Template has been carried out and it is considered that a full EQIA is not required.
- 6.7 Data – measures will be in place to ensure relevant personal data is managed in accordance with the Data Protection Act and GDPR requirements.
- 6.8 Value for money – there is no fee associated with applications for charitable collections.

## **Key documents:**

House to House Collections Act 1939

<https://www.legislation.gov.uk/ukpga/Geo6/2-3/44>

House to House Regulations 1947

<https://www.legislation.gov.uk/uksro/1947/2662/contents/made>

Police, Factories, etc (Miscellaneous Provisions) Act 1916

<https://www.legislation.gov.uk/ukpga/Geo5/6-7/31>

Charitable Collections (Transitional Provisions) Order 1974

[https://www.legislation.gov.uk/uksi/1974/140/pdfs/uksi\\_19740140\\_en.pdf](https://www.legislation.gov.uk/uksi/1974/140/pdfs/uksi_19740140_en.pdf)

Fundraising Regulator's Code of Practice

<https://www.fundraisingregulator.org.uk/code>

NALEO Guidance for Licensing Officers issuing licences for charitable door to door collections – England and Wales



# **DRAFT – Appendix 1**

## **Buckinghamshire Council**

# **Charitable Collections Policy**

December 2022

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# Introduction and guide to the Policy

**1.1** Buckinghamshire Council, as the Licensing Authority, regulates charitable collections which take place both in streets and from house to house. The relevant legislation is set out below. The purpose of this policy is to ensure that the application process and method of determination is fair, open and transparent.

- The House to House Collections Act 1939
- The House to House Regulations 1947
- The Police, Factories, etc (Miscellaneous Provisions) Act 1916 and as amended by the Local Government Act 1972
- Model Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974

## Aims and objectives

**1.2** The aims of this policy are to ensure that:

- the interests of public donors and beneficiaries are safeguarded
- collections are carried out to high standards by bona fide, authorised charitable organisations
- proceeds of the collection are properly accounted for
- a fair proportion of the proceeds are donated to registered charities
- unacceptable nuisance to the public is prevented
- unlicensed collections are prevented from taking place
- action is taken where there is evidence of unlicensed collection activity

**1.3** To achieve the aims of this policy, the Licensing Authority will:

- ensure openness, fairness and impartiality in determining applications
- accommodate, where possible, all eligible requests
- provide equal opportunities for collectors

- achieve a fair balance between national and local charities

## Exchange of information and data protection

- 1.4** The Council will share information which has been supplied by applicants or acquired in the course of exercising licensing functions with other agencies or enforcement bodies where it is lawful to do so and in accordance with the data protection legislation. This may include requests from the Audit Commission or other regulatory agencies where it is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Further information about how the Council uses personal information can be found [here](#).

## Standards

- 1.5** The Fundraising Regulator is the independent regulator for fundraising in England, Wales and Northern Ireland. The Licensing Authority expects all organisations to adhere to their Code of Fundraising Practice, a copy of which can be found [here](#).
- 1.6** The Chartered Institute of Fundraising (CloF) is the professional membership body for certain types of fundraising in the United Kingdom which are not regulated by permits or licences, including the collection of direct debit mandate information in public places. The CloF have produced guidance on this type of face-to-face fundraising which can be found [here](#).
- 1.7** In preparing this policy, the relevant Provision of Services Regulations and associated legislation and guidance have been taken into consideration. The Regulations aim to remove obstacles when applying for authorisations and to prevent the imposition of disproportionate or unnecessary requirements. Further information about the Regulations can be found [here](#).

## Consultation and implementation of the policy

- 1.8** This policy will be reviewed every five years. In addition, the policy may be updated at any time if it is considered necessary or appropriate. Any changes to this policy must be agreed by the Licensing and Regulatory Committee unless this function is delegated to an appropriate officer.
- 1.9** Any significant changes to the policy will only be made after full consultation with all stakeholders, including charities, residents, businesses and other relevant organisations and Council departments.

## 2. House to house collections

- 2.1** Buckinghamshire Council, as the Licensing Authority, is empowered under the House to House Collections Act 1939 and the House to House Collections Regulations 1947 to license house to house collections for charitable, benevolent or philanthropic purposes. This includes the collection of either money or other property directly from a person's property or a business premises where some or all of the proceeds are given to a charity.
- 2.2** The Licensing Authority considers that the collection of direct debit mandate information is included within the definition of proceeds as "money or other property" within section 11(1) House to House Collections Act 1939. A house to house collection licence is therefore required for this type of collection.
- 2.3** The only exemptions to the requirement to hold a licence are either for those charities that hold a National Exemption Order or where the need for a licence is waived by the Chief of Police. National Exemption Orders are issued direct to the organisation by the Cabinet Office and a list can be found in the Cabinet's guidance for the [National Exemption Order Scheme](#). The exemption allows an organisation to collect in an area without applying for a licence, but it must inform the Council of the dates and areas of any planned collections.
- 2.4** The need for a licence can be waived by the Chief Constable of the local police area if he is satisfied that the purpose of the collection is local in character and the collection is likely to be completed in a short period. In such cases, the applicant is granted a certificate in the prescribed form and as a result, a licence is not required and the provisions of the Act or Regulations would not apply to that collection.

### Applications

- 2.5** An application to carry out a house to house collection may be made for any ward within the Council area. A map of the collection areas (ward boundaries) is at Appendix 2.
- 2.6** Applications must be made on the Council's prescribed application form.
- 2.7** Applications will not be accepted more than twelve months in advance of the collection and the requested dates must be specified. Speculative and retrospective applications will not be accepted. Unless there are exceptional circumstances, a minimum of 28 days' notice must be given between the application and the proposed collection date(s).
- 2.8** In order to ensure that all charities are given equal opportunities, house to house collection licences will generally be subject to the following restrictions:

- licences will not be granted for periods of longer than 14 days.
- only one house to house collection will be permitted to any one charitable organisation in each calendar quarter (January – March etc.).

**2.9** Only one house to house collection will be permitted in each location per day with the following exceptions:

- where collection dates of charities holding an Exemption Order overlap with a collection date granted by the Council to a non-Exemption Order holder
- for small scale collections in a very limited area
- for organised one-day charitable events
- during the pre-Christmas period, such as for the Santa Sleigh

**2.10** In order to prevent nuisance to residents, no collection shall take place outside the hours of 09:00 and 19:00 and no contact should be attempted at properties where a sticker or sign is displayed which prohibits cold calling.

**2.11** Applications for a house to house collection licence will be dealt with on a “first come, first served” and case by case basis.

**2.12** Evidence of public liability insurance cover of a minimum of £5 million must be provided with the application.

**2.13** The Licensing Authority reserves the right to make more detailed enquiries about all applications in certain circumstances. This could include consulting with Thames Valley Police.

## **Licensee responsibilities**

**2.14** The responsibilities of licence holders and collectors are set out in the House to House Collections Act 1939 and the House to House Collections Regulations 1947/SI2662. An extract of the Regulations outlining these responsibilities is set out at Appendix 1 to this policy. Licence holders and collectors are expected to comply with these requirements.

**2.15** On approval of an application, the applicant will be issued with a licence to be retained during the collection along with a document to be sent to MH Stationery Office (<https://www.tsoshop.co.uk> or 0333 202 5070) to obtain a certificate of authority and the required number of collector badges. The licence and completed document should either be scanned and emailed to [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk) or sent via post to: TSO Customer Services, 18 Central Avenue, St Andrews Business Park, Norwich, NR7 0HR. Licence holders should allow at least 5 working days for HM Stationery Office to process requests.

**2.16** The key responsibilities relating to a collection are as follows:

- any collection must be authorised by the Licensing Authority and a licence issued
- all collectors must be over 16 years old
- each collector must wear a badge and carry a certificate of authority
- collectors must produce their badge on demand to the occupant of any house, any police officer or an authorised officer of the Council
- if a collector is carrying a collecting box, it must be sealed, numbered and clearly display the name of the charity or fund which is to benefit.
- no collection must be undertaken in a manner that would inconvenience or annoy any person.

**2.17** The key responsibilities following a collection are as follows:

- collectors must not be given access to the contents of collection boxes prior to their being returned to the licence holder for opening and counting.
- collection boxes must only be opened in the presence of the licence holder and another responsible person. Once opened, the contents must be counted immediately and the total amount collected in each box recorded.
- following the collection, the licence holder must complete a prescribed “return” form to the Council within one month of the end of the collection period. The licence holder must certify the return and it must be countersigned by a qualified accountant.

### **3. Street Collections**

- 3.1** Buckinghamshire Council, as the Licensing Authority, is empowered under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act 1972, to license collections made in “any street or public place within their area” for “the benefit of charitable or other purposes”. It is unlawful to hold a street collection for the benefit of charitable, benevolent or philanthropic purposes, without first obtaining a street collection permit from the Council.
- 3.2** ‘Street’ is defined as including any highway and any public bridge, road, lane, square, court, footway, passage or alley whether a thoroughfare or not.
- 3.3** ‘Public place’ is defined as “a place to which the public has access”. The public place need not be in public ownership and includes shopping centres and entrances to shops.
- 3.4** Charitable collections that take place inside a shop, store, supermarket or other business at the discretion of the manager or relevant person do not require a street collection permit provided that collectors remain inside the premises and do not collect outside on the premises frontage or car park, even where the outside area is

in private ownership. Where a charitable collection takes place outside the premises, on the premises frontage or car park a street collection permit would be required together with the consent of the land owner even if the outside area is privately owned.

- 3.5** Street collection permits authorise both the collection of money for charity and the sale of charitable items in a public place, which is exempt from the requirement of a street traders licence under Schedule 4, Part 2(i) of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.6** The collection of direct debit mandate information is not covered by street collection legislation, although Site Management Agreements with the Chartered Institute of Fundraising (CloF) are in place for Aylesbury and High Wycombe town centres. The agreements specify the days, times and locations that fundraisers are permitted to collect direct debit information. The current agreements can be found [\(here\)](#).
- 3.7** Any charitable collection of money or sale of items held in conjunction with a pedlar's licence will not be permitted without an appropriate street collection permit having been issued by the Council.
- 3.8** Moving collections such as carnival processions and other similar events involving the collection of donations from the public along a route will require a street collection permit.

## **Applications**

- 3.9** An application for a street collection permit must be made on the Council's prescribed form.
- 3.10** Applications for a street collection permit will be considered and dealt with on "first-come, first served" and case by case basis.
- 3.11** Applications for a street collection cannot be made more than twelve months in advance of the collection date and a minimum of 28 days notice must generally be given between the application and the proposed date of collection. This requirement may be waived in exceptional circumstances (such as national or international disasters) at the discretion of the Licensing Manager.
- 3.12** In order to ensure that all charities are given equal opportunities, no more than one street collection permit will generally be issued to any charity in each calendar quarter.
- 3.13** It is expected that the benefitting charity will be registered with the Charities Commission.
- 3.14** A copy of the written agreement or letter of authorisation between the benefitting charity and the street collection organiser must be provided with the application.

- 3.15** Where the proposed collection is to take place outside a store or supermarket, written permission from the land owner or appointed person must be provided with the application.
- 3.16** Where the proposed collection is to take place within an enclosed Shopping Centre, written permission from the management company must be provided with the application.
- 3.17** Evidence of public liability insurance cover of £5 million must be provided with the application. In a case where permission is sought for an animal to be used during a street collection the insurance policy must specifically include the use of animals in connection with the collection. In addition, a health and safety risk assessment relating to the use of an animal at the proposed location at the time and date of the collection must also be supplied.
- 3.18** The use of animals in conjunction with street collections is discouraged. Each application will be treated on its own merits but applications are likely to be subjected to additional scrutiny and further information is likely to be required, specifically in terms of ensuring the welfare of any animals participating in the collection.
- 3.19** Deductions for travel expenses to and from the place of collection will not be permitted.
- 3.20** Any application for street collection permits relating to outdoor challenge sponsorship events will be considered on a case by case basis in order to assess whether the proportion of funds collected to be applied to the activity costs comply with the statutory requirement that no payment shall be made out of the proceeds of a collection, either directly or indirectly, to any person connected with the promotion or conduct of the collection.
- 3.21** The street collection permit must be retained and provided to a member of the public, police officer or authorised officer on request.
- 3.22** Any money collected must be retained in a suitable container and in line with the Regulations set out at Appendix 3 of this policy.
- 3.23** Any collector must be aged 16 or over.
- 3.24** Collections will generally only be permitted within town or village centres.
- 3.25** In order to prevent nuisance to visitors and businesses, only one collection will be permitted in each area on any given day.
- 3.26** Collections will generally only be permitted between the hours of 08:00 and 20:00.

- 3.27** In line with the Site Management Agreement agreed with the CloF, street collection permits will generally only be issued for Wycombe town centre on Tuesdays, Fridays, Saturdays and Sundays.
- 3.28** In line with the Site Management Agreement agreed with the CloF, street collection permits will generally only be issued for Aylesbury town centre on Wednesdays, Thursdays, Fridays and Saturdays.

### **Sale of small society lottery tickets**

- 3.29** The sale of small society lottery tickets under the authorisation of a street collection permit is only permitted where:
- specific permission to do so has been granted by the Licensing Authority.
  - the organisation holds a valid small society lottery registration.
  - the sale of tickets will only take place from behind a counter or stall.
  - the lottery tickets have been printed in accordance with the requirements of the Gambling Act 2005 and associated Regulations.
  - the sale of the tickets will be in accordance with any relevant Gambling Commission code of practice.
  - proof of public liability insurance of £5 million has been provided with the application.

### **Pedlar's Licences**

- 3.30** A street collection or sale of items held in conjunction with a pedlar's licence will not be permitted within the Council area without an appropriate street collection permit having been issued by the Council.

## **4. General provisions**

### **Fees**

- 4.1** There is no statutory charge for the issue of a street collection permit or house to house collection licence.

### **The allocation of licences and permits**

- 4.2** When deciding whether to grant a licence or permit, consideration will be given to the following:



- if the collection is linked to specific events in the area
- if the collection is linked to a nationwide campaign
- if the collection will benefit local good causes, local hospices, community fundraising, etc.
- if the collection is being held on behalf of a national charity, is there likely to be some benefit to the residents of Buckinghamshire Council
- what proportion of funds collected will be applied for purely charitable purposes
- if a licence has been previously refused by Buckinghamshire Council or any other Local Authority

**4.3** Applications for licences or permits relating to emergency disasters will be considered on a case to case basis.

**4.4** Details of issued permits and licences will be made available on the Council's website.

## **Grounds for refusal**

**4.5** The Licensing Authority can refuse or revoke a licence for a number of reasons, including the following:

- if too high a proportion of the proceeds are to be spent on expenses
- if not enough of the proceeds are to be given to the charity or cause
- if the applicant or holder of the licence has refused or failed to provide the Authority with information as required by the application process
- the grant of a licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824
- the applicant or the holder of the licence has been convicted of or cautioned for a relevant criminal offence
- there is evidence of non-compliance with any requirements or legislation in relation to a previously issued licence or consent
- the applicant or the holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to secure compliance with the provisions of the House to House Regulations, or to prevent prescribed badges or certificates of authority being obtained by persons other than persons so authorised

**4.6** In addition to the above, the following additional notes are included for guidance to applicants to ensure that applications can be processed quickly and efficiently:

- any financial information provided in relation to the proportion of the proceeds which will be donated to charity must be clear transparent. It is likely that an application will be refused if the Authority cannot be confident in any information or calculations provided in this respect
- the Authority must also be satisfied that the amount given to the charity is adequate in relation to the proceeds received. A declaration will be required from the benefitting charity confirming either that a proper balance has been achieved between costs and the amount being donated to charitable causes (where collections are carried out by the charity itself) or that the charity has carried out due diligence and is satisfied with the level of remuneration going to charitable causes (where collections are carried out by commercial organisations on behalf of the charity).
- if required returns have not been supplied to the Authority following previous licensed collections within the Council area by the same organisation or individual, it is likely that further applications will be refused.

## **Decision Making and Appeals**

- 4.7** In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy.
- 4.8** Notwithstanding the existence of this policy, each application will be accepted and determined on its own merits based on the principles set out in this policy.
- 4.9** Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Departure from the policy may be permitted in accordance with this section if it is considered necessary to do so in specific circumstances.
- 4.10** Decisions to refuse an application or revoke a licence or permit are delegated to appropriately trained and authorised officers. Any such decision will be notified to the applicant in writing, setting out the grounds for refusal or revocation.
- 4.11** Any person aggrieved by the refusal to grant an application or revoke a permit for a street collection should appeal against the decision within fourteen days from the date on which the notice is given. Any appeal must be made to the Head of Licensing Services at Buckinghamshire Council and their decision will be final.
- 4.12** Any person aggrieved by the refusal to grant an application or revoke a licence for a house to house collection may appeal against the decision within fourteen days from the date on which the notice is given. Any appeal must be made to the Secretary of State and the Secretary's decision will be final.

## **Regulation and enforcement**

- 4.13** Charities are generally expected to be registered with the Charity Commission or be a recognisable charitable organisation.
- 4.14** Where a statement of return has been “Nil” (unless in the case of a cancelled collection) or there has been a failure to return the statement of return to the Council within the statutory period, subsequent applications will be refused.
- 4.15** If a collection is cancelled by the organisation and a collection licence/permit has been issued, the licence must generally be returned to the Council at least 7 days prior to when the collection is due to take place. Failure to do so may result in future applications being refused.
- 4.16** All house to house collections will be conducted in accordance with all relevant legislation and specifically the Regulations set out at Appendix 1.
- 4.17** It is an offence for any person to promote or make collections from house to house without the promoter first obtaining a licence from the Licensing Authority. Anyone acting as a collector where there is not a licensed promoter also commits a criminal offence. Offences are punishable by penalties ranging from a fine of up to £200 or in some cases up to six months imprisonment and a fine of up to £1,000.
- 4.18** All street collections will be conducted in strict accordance with the Street Collection Regulations made by the Council which are set out at Appendix 3.
- 4.19** Any person who acts in contravention of any of the street collection regulations shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale or in the case of a second or subsequent offence a further fine not exceeding level 1 on the standard scale.
- 4.20** It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible collectors and permit or licence holders.
- 4.21** The Council will operate a proportionate enforcement regime in accordance with the Council’s enforcement policy which is available [here](#).
- 4.22** With regard to charitable collections, the Council aims to:
- safeguard the interests of both public donors and beneficiaries
  - facilitate well-organised collections by bona fide charitable institutions and ensure that good standards are met
  - prevent unlicensed collections from taking place
  - ensure that when collecting money it is collected in appropriate vessels only
  - ensure that collectors are properly authorised
  - ensure that the proceeds of a collection are properly accounted for

- ensure that the Licensing Authority receives, within the prescribed timescales, the statutory returns

**4.23** The responsibility for the overall supervision of house to house and street collections lies with the Head of Licensing Services.

## Appendix 1

### House to House Collection Regulations 1947 (extract)

#### Statutory Rules and Orders 1947 No 2662

##### Extract of Regulations

Every promoter of a collection shall exercise all due diligence:-

- (a) to secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
  - (b) to secure compliance on the part of persons so authorised with the provisions of these regulations.
- (1) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person:-
- (a) a prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
  - (b) a prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection; and
  - (c) if money is to be collected, a collection box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of the receipt.
2. Every promoter of a collection shall exercise all due diligence to secure:-
- (a) that no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
  - (b) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
3. In the case of a collection in respect of which a licence has been granted:-
- (a) every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationery Office, and every prescribed badge shall be so obtained; and
  - (b) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the District Secretary for the area in respect of which the licence was granted.
7. Every collector shall:-
- (a) sign his name on the prescribed certificate of authority issued to him and produce it on

the demand of any police constable or of any occupant of a house visited by him for the purpose of collection;

- (b) sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
  - (c) keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.
8. No person under the age of sixteen years, shall act or be authorised to act as a collector of money.
9. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof.
10. (1) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitting the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.
- (2) Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.
11. Every collector, to whom a collecting box or receipt book has been issued, shall:-
- (a) when the collecting box is full or the receipt book is exhausted, or
  - (b) upon the demand of a promoter of the collection, or
  - (c) when he does not desire to act as a collector, or
  - (d) upon the completion of the collection,
- return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.
12. 1. Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.
2. Where a collection box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.
3. As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.
4. Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the

persons making the examination.

13.

- (1) Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of opinion that the collection is for a charitable purpose of major importance and is suitably administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.
- (2) Where an envelope collection is made in accordance with this regulation:-
  - (a) every envelope used shall have a gummed flap by means of which it can be securely closed;
  - (b) no collector shall receive a contribution except in an envelope which has been so closed; and
  - (c) these regulations shall have effect subject to the following modifications:-
    - (i) sub-paragraph (c) of paragraph (1) of regulation 6 shall not apply;
    - (ii) regulation 10 shall not apply;
    - (iii) regulations 11 and 12 shall have effect as if each envelope in which a contribution is received were a collecting box;
    - (iv) in regulation 11 for the words "with the seal unbroken" there shall be substituted the words "unopened";
    - (v) in paragraph (3) of Regulation 12 for the words "As soon as a collecting box has been opened" there shall be substituted the words "As soon as the envelope has been opened" and the words "with the distinguishing number of the collecting box" shall be omitted.
- (3) In this regulation "envelope collection" means a collection made by persons going from house to house leaving envelopes in which money may be placed and which are subsequently called for.

14.

- (1) The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the Council by which the licence was granted within one month of the expiry of the licence:

Provided that if licences are granted to the same person for collections to be made for the same purpose in more than one Local Authority area, a combined account of the collections made in all or any of those areas may, by agreement between the chief promoter and the respective local authorities, be made only to such of the respective local authorities as may be so agreed.

- (2) The chief promoter of a collection in respect of which an order has been made shall furnish an account annually to the Secretary of State so long as the order remains in force, and if the order is revoked a final account shall be furnished within three months of the date of the revocation of the order.
- (3) The licensing authority or the Secretary of State may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.
- (4) The chief promoter of a collection which is made in connection in whole or in part with a street collection of which an account is required to be furnished to a licensing authority by regulations

made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act, 1916, may, if the said licensing authority agrees, combine the accounts of the house to house collection, insofar as it is made in connection with the street collection, with the accounts of the street collection, and the amount so included in the combined account shall not be required to form part of the account required to be furnished under paragraph

(1) or, as the case may be, paragraph (2) of this regulation, so, however, that in the case of an account furnished under the said paragraph (2) the account shall show, in addition to an account in respect of moneys received from house to house collections not made in connection with a street collection, a statement showing the total proceeds of all combined collections, the total expenses and the balance applied to charitable purposes.

15. The account required by the preceding regulation:-

(a) where money has been collected, shall be furnished in the form set out in the Fifth Schedule

to these regulations and, where property has been collected and sold, shall be furnished in the form set out in the Sixth Schedule to these regulations, and in either case shall be certified by the chief promoter of the collection and by an independent responsible person as auditor; and

(b) where property (other than money) has been collected and given away or used, shall be furnished in the form set out in the Seventh Schedule to these regulations and shall be certified by the chief promoter and by every person responsible for the disposal of the property collected.

16. Vouching of Accounts

(1) Every account furnished under paragraph (a) of regulation 15 of these regulations shall be accompanied by vouchers for each item of the expenses and application of the proceeds and, in the case of a collection of money, by every receipt book used for the purposes of the collection and by the list referred to in paragraph (2) of regulation 6 of these regulations and the list referred to in regulation 12 of these regulations.

(2) Paragraph (1) of this regulation shall not apply to an account certified by an auditor who is a member of an association or society of accountants incorporated at the date of these regulations or is on other grounds accepted as competent by the authority to which the account is submitted, but where in such a case the vouchers, receipt books and lists mentioned in the said paragraph (1) are not submitted with an account, the chief promoter shall ensure that they are available for three months after the account is submitted and shall, if the authority to which the account was submitted so requires at any time within that period, submit them to that authority.

17. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose.



## Appendix 2

### House to House Collection Areas



## Appendix 3

### Street Collection Regulations

#### Made under the Model Regulations set out in the Charitable Collections (Transitional Provisions) Order 1974

In pursuance of Section 5 of the Police, factories, etc (Miscellaneous Provisions) Act 1916, as amended by Section 251 and Schedule 29 of the Local Government Act, 1972, Buckinghamshire 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 Buckinghamshire Council area 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;  
  
“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 area of Buckinghamshire Council 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 Buckinghamshire Council may reduce the period of one month if satisfied that there are special reasons for doing so.
4. No collection shall be made except upon the day and between the hours stated on the permit.
5. Buckinghamshire Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (i) No person may assist or take part in any collection without the written authority of a promoter;  
  
(ii) Any person authorised under paragraph (i) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Wycombe District Council or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway; provided that Buckinghamshire Council 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 Buckinghamshire Council 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.
12.
  - (i) Every collector shall carry a collecting box;
  - (ii) 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;
  - (iii) All money received by a collector from contributors shall immediately be placed in a collecting box;
  - (iv) Every collector shall deliver, unopened, all collecting boxes in his 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.
  - (i) Subject to paragraph (ii) below a collecting box shall be opened in the presence of a promoter and another responsible person;
  - (ii) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank
  - (iii) 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.
  - (i) No payment shall be made to any collector
  - (ii) No payment shall be made out of the proceeds of the 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 Buckinghamshire Council.
16.
  - (i) Within one month after the date of any collection the person to whom a permit has been granted shall forward to Buckinghamshire Council:-
    - (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 a collection, and certified by that person and either a qualified accountant or an independent responsible person acceptable to Buckinghamshire Council;
    - (b) a list of collectors;
    - (c) a list of the amounts contained in each collecting box; and shall, if required by Buckinghamshire Council, satisfy it as to the proper application of the proceeds of the collection;
  - (ii) That said the person shall also, within the same period, at the expense of that person and after the certificate under paragraph (i)(a) above has been given, publish in such newspaper or newspapers as Buckinghamshire 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;

- (iii) Buckinghamshire Council may, if satisfied there are special reasons for so doing extend the period of one month referred to in paragraph (i) above;
- (iv) For the purposes of this Regulation “a qualified accountant” means a number of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales  
The Institute of Chartered Accountants in Scotland  
The Chartered Association of Certified Accountants  
The Institute of Chartered Accountants in Ireland

17. These Regulations shall not apply:-

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

These Regulations shall come into operation upon the expiration of the period of one month beginning with the date on which they are confirmed by the Secretary of State and all other street collection Regulations having effect in the Buckinghamshire Council area are hereby repealed with effect from the date on which these Regulations come into force.



## **Guidance for Licensing Officers issuing licences for charitable door to door collections – England and Wales**

**September 2011 - Appendix 2**

Update October 2011

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## **Statement of intent**

This document should give clear guidance to licensing officers on which factors to be taken into account when determining applications for Charitable House to House Collections. If officers are minded to refuse an application then one should bear in mind the Cabinet Office's recent decision to review the way in which it will handle appeals against refusals to issue licences. This document is for guidance only. However, licensing authorities are ultimately responsible for their own decisions and should therefore ensure that they apply the law in accordance with any relevant advice from their legal advisors.

## **Scope**

This guidance covers applications made for Charitable House to House Goods Collections and does not cover cash, direct debit or other monetary collections. The following section provides guidance on how to determine applications for house to house collections. This guidance applies to England and Wales only.

## **1 Introduction**

### **1.1 Quick Check List**

If you want to make sure that you handle an application for a charitable door to door collection properly and fairly, but do not want to spend too much time evaluating every little detail, the Quick Check List in Appendix 1 can help.

If you have checked every point listed and you are confident of the information that has been provided by the applicant, you should be able to make a reasonably confident decision on whether to grant, refuse or refer onwards.

### **1.2 Charitable House to House Collections**

Charitable house to house collections involve the collection of goods directly from a householder's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities.

### **1.3. The Benefits.**

The benefits of any legitimate charitable door to door collection are clear.

Apart from being able to raise substantial sums of money for the benefitting charity, they are popular, easy to use, produce clear environmental benefits, support the Government's Waste Strategy, provide substantial benefits for local tax payers, help local authorities meet their legal recycling targets, and can help to support hundreds of local jobs.

For further information on the benefits of supporting all legitimate charitable door to door clothing collections see Appendix 2.

### **1.4 The Institute of Fundraising's House to House Collections Code of Fundraising Practice**

[http://www.institute-of-fundraising.org.uk/Codes\\_and\\_regulation/Codes/codes-directory](http://www.institute-of-fundraising.org.uk/Codes_and_regulation/Codes/codes-directory)

The Institute of Fundraising (IoF - which represents the fundraising interests of all charities) launched its revised House to House Collections Code of Fundraising Practice containing information on goods collection in April 2011. The revised code specifically addresses issues pertaining to charitable door to door collections. Organisers of charitable door to door collections that sign up to the revised code,

must be able to demonstrate that they conduct their collections to high professional standards and uphold all relevant legislation.

A publicly available document, which explains in an unbiased way how charities can benefit from the different forms of charitable door to door collections and published on the IoF website is contained within Appendix 3.

### **Charity Retail Association**

<http://www.charityretail.org.uk/ccr2011.pdf>

The Code of Charity Retailing promotes good practice and high standards for charity retailing. Compliance with the Code is a mandatory part of membership of the Association for UK charity members.

### **1.5 Review by Cabinet Office of the way in which it handles appeals against decisions by licensing departments to refuse granting of a Charitable Door to Door Collections.**

Historically, the Cabinet Office (and before it the Home Office), under the House to House Collections Act (1939), would look at how the local authority went about reaching its decision. Provided that the licensing authorities' decision was one that could reasonably have been reached on the facts presented to it, and the process it followed was fair, the Cabinet Office have not up until now considered the merits of the licence application.

However they now consider that in order for the Minister to be able to comply with their statutory function, the Minister must now look at each appeal afresh and the Minister must make their own decision on the basis of all the evidence presented to them.

For further information on the outcome of their review and consultation see Appendix 4.

## **2 How Charitable Door to Door collections work?**

**2.1** The majority of charitable door to door collections operate in similar ways to each other, but the information provided by operators can vary significantly depending on who undertakes the collections. There are three main scenarios to consider.

- 1. Charities which undertake collections in partnership with commercial door to door collection businesses.**
- 2. Charities that undertake their own door to door collections without the use of a commercial collection partner and do not sell the items through a charity shop.**
- 1. Charities that undertake their own door to door collections and which sell the collected items through their charity shops.**

See Appendix 3 for further details.

A limited number of collections may be arranged by individuals. It is important that applications of this nature are handled in exactly the same way as if they are being

organised by a commercial party, commercial arm of charity or the charitable purpose itself.

### 3 The Law

(See also section 4 “What is a Charitable Purpose?” and point 4.5 “What is not a Charitable Purpose?” below)

#### **1939 House to House Collections Act and the 1947 House to House Collections Regulations.**

**3.1** The licensing of Charitable Door to Door Collections is principally governed by the 1939 House to House Collections Act together with the 1947 House to House Collections Regulations. With the exception of a limited number of major national charities which hold national exemptions issued by the Cabinet Office, the majority of charitable door to door collectors must first of all obtain a licence from the relevant licensing authority.

**3.2** Under the 1939 Act, a licensing authority may refuse to grant a Licence, or, where a Licence has been issued may revoke it, if it appears to the authority that: -

1. The total amount likely to be applied for **charitable purposes** as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the **proceeds** likely to be received (including any proceeds already received);
2. Remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the **proceeds** of the collection by any person;
3. The grant of a Licence would be likely to facilitate the commission of an offence under Section Three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
4. The applicant or the holder of the Licence is not a fit and proper person to hold a Licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of Her Majesty’s dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a Licence;
5. The applicant or the holder of the Licence, in promoting a collection in respect of which a Licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or
6. The applicant or holder of the Licence has refused or neglected to furnish to the Authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs

**3.3** In respects to the Charities Acts 1992 and 2006, there are 3 relevant obligations for charitable collections.



1. The trustees have a legal duty to act in the best interest of the organisation.
2. If a partnership is formed with an external organisation, a contract is required, setting out the benefits and obligations of each party.
3. If a commercial party gains financially from the partnership, a solicitation statement is needed. The statement must name the benefitting charity and outline a financial amount that the charity will receive. This statement can be written or verbal, but must be made before a donation is made.

These obligations are there to protect charities interests and ensure that the public are aware of the true benefit to the charity and can make an informed decision of who to donate to.

The 2006 Act also outlined a new licensing regime, which would change how and when collectors need to apply for a licence. However, this has not yet been implemented and it is uncertain if or when it will be brought in.

#### **4 What Constitutes a Charitable Purpose?**

**4.1** Under the 1939 House to House Collections Act, a licence can be refused if the proportion of proceeds going for “charitable purpose” is inadequate.

**4.2** It is important to understand what constitutes a “charitable purpose” and equally importantly what is **not** a “charitable purpose”.

##### **4.3 *The 1939 Act***

1939 House to House collections act defines “charitable purpose” means any charitable, benevolent or philanthropic purpose, whether or not the purpose is charitable within the meaning of any rule of law;

##### **4.4 *The 2006 Charities Act (2006)***

S2 of the Charities Act 2006 also defines 13 purposes which are considered charitable in England and Wales and can be found at the following link.

<http://www.legislation.gov.uk/ukpga/2006/50/contents>

##### **4.5 What is not a Charitable Purpose?**

Profit making businesses (including fundraising arms of charities) are not charitable purposes.

#### **5 Relevance of percentages when considering applications.**

**5.1** In the case of door to door collections and Cabinet Office advice that each case must be considered on its own merit, setting an arbitrary minimum percentage of the total value of the goods going to the charity is problematic. For reasons explained in paragraphs 5.2 to 5.6, such figures usually bear no resemblance to the amount of proceeds raised for the actual charitable purpose. At the point at which the goods have been collected, it is unlikely that the value of the proceeds generated for charitable purpose will be much more than 20%, whoever has undertaken the collection.

**5.2** Typically, the cost of collecting door to door is substantial compared to the actual value of the goods at its point of collection. However there is still some scope for

efficient charitable door to door collections to raise substantial sums of money for charity, albeit on relatively small profit margins per tonne of goods collected.

**5.3** Where the collection is undertaken by a commercial third party, the charity is guaranteed an income (usually based on a per tonne basis), even if it turns out the commercial partner's collect costs are more than the revenue gained through the value of the goods collected. If the charity undertakes its own collection it is likely to raise more per tonne but incurs more risk.

**5.4** Published accounts indicate that around 80% of all revenue generated by a charity's trading subsidiary is ploughed back into the running of the trading arm. So even if the trading arm passes all its profits onto its affiliated charity, it usually means that around 20% of the total revenue generated goes for charitable purpose.

In any case, the process of adding value by sorting donated goods and passing them through charity shops or sending for export, is a separate activity from the door to door collection, and is not covered by the 1939 House to House Collections Act. See special note in Appendix 1.

## **6 How can one be sure that the amount of proceeds going for charitable purpose is adequate?**

**6.1** As mentioned in 3.3, trustees are under a duty to ensure that all actions are in the best interest of the organisation. This will involve considering financial and reputation aspects before entering into a contract. Charity employees are well versed on standard returns from partnerships so will often be aware of what is considered standard and can use this when considering a new agreement.

**6.2** Local authorities may wish to consider requesting a "statement of due diligence" from the charity associated with the collection as part of the supporting documentation, (See Appendix 1, Quick Check list, para 4.)

## **7 Model Application**

### **House to House Collections Regulations 1947 (Schedule 2)**

**7.1** The attached model application form in Appendix 6 must be used by licensing authorities to assess whether a charitable door to door goods collection should be granted a licence. All applicants, whether they are a charity themselves, the commercial arm of a charity or a third party such as a commercial collection partner must all be asked the same questions and must provide answers to all the questions.

**7.2** For reasons explained below, it is very important that licensing officers understand how much is going for charitable purpose and that they are able clearly to distinguish this from the income received by whoever undertakes the collection.

**7.3** Supplementary information may be requested to support the application. Please see the checklist in Appendix 1

## **8 Important issues for Consideration (Summary).**

When considering applications the financial information given is sometimes difficult to interpret. Unless the applicant is able to clearly identify the proportion that will be

donated to a charitable purpose and the licensing department is confident in the calculations the applicant should be asked to clarify the information that they have provided. If they are unable to clarify information requested, they should first be invited to withdraw the application. If they refuse to withdraw the application following a request for clarification then you may be minded to recommend refusal of the licence.

1. It is particularly important that an application provide clear information about who is undertaking the collection (e.g. whether it is an individual, a commercial collection partner, a charity's commercial collection arm or a registered charity itself). It is also important that the application makes a clear distinction between the revenue received by the collector and the proceeds that are actually applied to the charitable purpose.
2. The collection costs incurred by the collector will vary dependant upon the method of collection and should be taken into account and deducted before the amount being sent for charitable purpose can be derived.
3. If the proportion allocated to the charitable purpose is clear, the licensing authority must be satisfied that the amount to be given to the charitable purpose is adequate in relation to the proceeds received. The 1939 House to House Collections Act does not make any stipulation as to what constitutes an adequate proportion and it is up to individual licensing authorities to make their own decision. This guidance is intended to help them make such a decision.
4. In deriving this, licensing authorities need to be mindful that although the costs of collecting a tonne of clothing can be substantial in relation to the actual value of the clothing, this in itself should not be seen as an automatic reason for refusing a licence. Efficiently run charitable door to door goods collections can make substantial sums of money charities despite high collection costs and remove what could otherwise become significant amounts of waste from the household refuse stream.
5. When assessing an application to undertake a charitable door to door collection, Licensing authorities should assess whether the proceeds actually going for charitable purpose (after all remuneration/collection costs have been deducted) and should adopt a default position where they only consider refusals if it is apparent that these proceeds of a particular collection, are significantly lower than those being achieved by other similarly modelled collections operating in the same area at about the same time.
6. Licensing officers should also be mindful of the outcome of the 2010 judicial review involving Birmingham Council, the Minister for the Cabinet Office and Clothes Aid where the Minister accepted he made an error of law when considering the appeal and that a full merit assessment of Clothes Aid's licence application should have been carried out. As a result, Cabinet Office is currently reviewing the way that appeals are viewed as a result of this case and a full merit assessment of licensing applications will be carried.
7. As well as appraisal being given to the proportion of proceeds being applied for charitable purpose and remuneration or costs incurred as a result of the collection, licensing officers should also consider whether any of the other grounds for refusal stipulated in the 1939 House to House Collections Act and

highlighted in paragraph 3.2 of this guide are relevant to the application being considered.

8. If it is known that there will be a too high concentration of charitable door to door collections taking part in the particular area at around the same time, as the proposed collection being considered, the Licencing Authority may want to consider undertaking the following (in order of preference);
  1. Arrange by mutual agreement with the collector to grant a licence to operate a collection on alternative dates;
  2. If this is not possible, make a recommendation to the collector to withdraw the licence application;

## **9 Policy outcomes**

### **Outcomes and links to the corporate outcomes**

If this policy is adopted it should contribute to the following outcomes:

- Good reputation with customers and regulators
- Good quality of life – helping to create cleaner, safer, prosperous, healthier and sustainable local environment.
- Effective partnership working – Helping to support and create jobs both locally and nationally, and to raise funds for local and national charitable purposes.
- Members and staff with the right knowledge, skills and behaviours
- Help individuals, businesses and local authorities to reduce waste and recycle more, reducing landfill and making better use of resources

## **10 References**

House to House Collections Act 1939  
House to House Collections Regulations 1947 & 1963  
Police, Factories, &c. (Miscellaneous Provisions) Act 1916  
Metropolitan and City Policy Districts Regulations 1979  
& (Amendment) Regulations 1986  
The Charitable Collections (Transitional Provisions) Order  
1974. As Amended in Council, 1992 Model Regulations  
1992 Charities Act  
2006 Charities Act.

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## Appendix 1.

### **Quick Check List** **for handling charitable door to door goods collection licence applications.**

Below is a quick check list, which has been developed to help licensing officers make decisions on a day to day basis, as to whether a licence should be granted for a charitable door to door goods collection.

This check list forms part of the guidance developed by NALEO in conjunction with the Institute of Licensing, Institute of Fundraising and trade representatives. The guidance expands on the issues dealt with below. It is recommended that licensing officers ensure that they familiarise themselves with the contents of the full guidance as well as make use of the quick check list.

1. Has the applicant answered all the questions in the “Model Application Form” (see below)?
  - If yes, go to question 2
  - If no, return application form and ask applicant to complete.

2. Who is applying for the licence?

It is important to be aware of who is undertaking the collection to ascertain that applicants are fit and proper.

3. Has the collector clearly identified all tangible costs that they have been asked to provide in the “Model Application Form”?
  - If yes, go to question 4.
  - If no, return form to applicant.

4. Has a statement been provided by the benefiting charitable purpose stating that they are aware of their legal requirements, that they have exercised due diligence and that the collection will raise the maximum possible benefit for the charitable purpose?
  - If yes, go to question 5.
  - If no, return form to applicant.

The statement can be signed by someone from the fundraising department, management team or the trustees.

This statement is important as it ensures that the charitable purpose has stated that they have considered whether they have got the best deal. It also means that licencing officers have dealt with their duty to ensure that appropriate returns are going to the charitable purpose, without second guessing or overruling decisions made by the charitable purpose.

5. Is it clear what proceeds (in terms of Pounds Sterling/for every tonne collected) will be going to the charitable purpose?
  - If yes, go to question 6.
  - If no, see special costs considerations note below.

If you think that the proceeds going for charitable purpose may be too low, then you may wish to consider talking to the applicant to see if this can be reviewed. However, it is important to bear in mind that the commercial or fundraising arm of a charity is not likely to be considered a charitable purpose and collection costs must be considered and deducted, whoever undertakes the collections.

6. Are there any other licensed charitable door to door goods collections proposed to be taking place at around the same time in the same area?
  - If yes, you may wish to consider deferring the collection to a later date if there is too high a concentration of collections in the area over the period.
  - If no, go to question 7.
  
7. Are there any other reasons listed under 1939 House to House Collections Act, section 2, paragraph 3 for refusing a licence? (See Section 3.2)
  - If no to question 7, and you are happy with the answers to the other questions and the model form then you should be minded to grant a licence. See special cost considerations below.
  - If no to question 7 but you are not happy around amounts going to charity, please see special costs considerations note below.
  - If yes to question 7 then you should approach the applicant to see if the matter(s) can be resolved.

### **Special Cost Considerations Note.**

Sometimes it may be difficult to establish what proceeds are being applied for charitable purpose. However, the 1939 House to House Collections Acts requires licensing officers to consider how much is being applied for charitable purpose. For reasons shown below it is important to establish what the associated costs of running the collections are and deduct these so that the amount applied for charitable purpose can be worked out.

Basic formula for working out profit

In economics to work out the profit of any venture, the following formula is applied.

Profits = Revenue Generated – Total Costs incurred by profit making venture.

To work out the amount of money being applied for charitable purpose, the following terms could be substituted and applied to the above formula, so that it would now read.

Profits applied for Charitable Purpose = Revenue Generated (through sales of clothing) – total costs incurred through collections.

Therefore, in order for licenses offices to be able to establish how much money is applied for charitable purpose, they need to know how much revenue is generated and what the collection costs are.

The 1939 House to House Collections Act requires any applicant by law to declare such refusals or revocations truthfully. However, the refusals process has always been done one way and because it was very complex, it was very difficult for to successfully appeal against a decision to refuse a licence. Any refusals which were issued before the review by the Cabinet Office into the appeals process and the issuing of this NALFO guidance should be considered with this in mind.

## **Appendix 2.**

### **The Benefits of Supporting Legitimate Door to Door Charitable Goods Collections**

#### **They are popular.**

Surveys have shown that there are many members of the public who support door to door collections citing much greater convenience as a key factor.

#### **There are clear environmental benefits.**

Clothing is also the fastest growing household waste stream and it is estimated that the clothing industry accounts for about 5 to 10% of all environmental impacts within the EU. The Government have identified textiles as a priority waste stream and a recent report commissioned by DEFRA made an explicit recommendation to encourage higher collection rates through the expansion of local authority approved door to door goods collections.

#### **They benefit local authorities and the local tax payer.**

In addition to this, all local authorities have been set legally binding recycling targets, which they have to achieve. By licensing all legitimate charitable door to door goods collections, local authority recycling departments can use the data contained within returns submitted by the charity collectors and include this in their overall figures.

Furthermore, licensing of these collections makes direct financial sense for local taxpayers. They can make direct financial savings. Local Authorities have to pay a levy on all waste that they send to landfill. By diverting more textiles away from the waste stream these costs to the local authority are reduced. One should also consider that Waste Collection Authorities (usually borough or district councils) can make a Waste Collection Credit claim to Waste Disposal Authorities for all the waste that is diverted away from disposal in their area.

#### **They can help to support local jobs.**

It is important that local authorities are seen to support local job opportunities as well as charities that operate in their area. Many charities choose to engage the services of a commercial partner to undertake collections on their behalf, often because the charity is simply not prepared to undertake the financial or logistical burdens associated with undertaking collections themselves or they simply do not have the resources. Textile collectors and charity organisations employ hundreds of people and these organisations rely on a regular supply of affordable quality clothing in order to maintain their operations.





## House to House Clothing Collections Guidance.

### What information does this document provide?

This document outlines the three main ways in which legitimate charitable door to door clothing collections take place. They are as follows:

- 1) Charities which undertake collections in partnership with commercial door to door collection businesses.
- 2) Charities that undertake their own door to door clothing collections without the use of a commercial collection partner and do not sell the items through a charity shop.
- 3) Charities that undertake their own door to door clothing collections and which sell some of the collected items through their charity shops.

All three types of collection have their relative merits and help raise significant funds for charity. Unfortunately, this method is under threat from bogus collectors, who pretend to represent charities, but in fact will keep all monies for themselves. Bogus collectors are taking goods that the public wish to see go to charity, and depriving the charity sector of much needed goods and income. This briefing also provides guidance and tips on how to spot bogus collectors.

This document was produced by the Institute of Fundraising, The Fundraising Standards Board, The Textile Recycling Association (TRA), The Charity Retail Association (CRA) and Kidney Research UK.

### Why should people support charitable door to door clothing collections?

- 1) *They are good for the environment, the economy and charitable fundraising.*

We currently buy over 2 million tonnes of new clothing and textiles every year in the UK, and according to DEFRA it is UK's fastest growing household waste stream. At the same time we are dumping over 1 million tonnes of used textiles in the bin and collecting only about 550,000 tonnes for re-use and recycling annually. More needs to be done to increase re-use and recycling and decrease dumping.

- 2) *They are popular with the public and convenient to use.*

Up until recently door to door collections of clothing have been a relatively underutilised method of collecting clothing, but they are becoming increasingly popular with the public and charities alike. According to the results of a survey undertaken on behalf of the "Professional Fundraiser", door to door clothing collections are popular because the public feel that there is a lack of pressure to give. Many respondents said that "it is a great way to

get rid of serviceable items”, they offer greater convenience than other collection methods and make it easier for the public to recycle clothing.

### *3) They help charities to raise significant funds and support employment opportunities in the UK.*

All legal charitable Door to Door clothing collections not only provide a valuable service to the public and highly significant environmental benefits, but they also provide opportunities for all participating charities to raise significant funds, and support employment opportunities for thousands of people here in the UK.

There are in principal three different ways in which charitable door to door clothing collections can operate. These are outlined below. All of them can provide significant income for the benefiting charity, can divert significant amounts of clothing and textiles away from the waste stream and be tailored to suit the individual set up of the benefiting charity. All the different collection methods have their relative merits.

It is the actual net profit that the charity receives for each tonne collected and the weight of clothing that can be collected and processed which is of key importance to a charity.

There is statutory protection to keep charities from entering agreements that may not be advantageous. The House to House Collections Act 1939 allows local authorities to refuse a licence to a collection that they feel does not provide a reasonable level of benefit to a charity. Trustees and charity managers also operate under a fiduciary duty to ensure that any agreements are in the best interests of the charity. This legislation and best practice guidance (including the Institute’s House-to-House Collections Code and also Charities Working with Businesses Code) can assure donors and licencing officers that legitimate charity collections, no matter who undertakes them, result in the charity benefitting financially.

#### What are the different collection methods?

##### **1. Charities which undertake collections in partnership with commercial door to door collection businesses.**

Under such arrangements the commercial collection partner meets all the costs of setting up and promoting the scheme and undertakes all the work. The collection partner can then prepare the clothing for export at the prevailing global market prices.

The benefiting charity then receives a payment from the commercial collection partner. The rest of the operating profit goes to the participating textile collection business.

The profits generated by the business helps to secure paid jobs for the thousands of people employed in the UK textile reclamation industry.

Such arrangements offer charities a risk free way to fundraise. The commercial collection partner undertakes all burdens. The benefiting charity does not incur any costs, commercial risks or the inconvenience that running such a scheme incurs. If there is a downturn in the market, the losses that would be incurred are met completely by the commercial collection partner. Under this type of arrangement, there can be a very high turnover of clothing and the potential to generate large sums of money every year for the charity is significant.

##### **2. Charities that undertake their own door to door clothing collections without the use of a commercial collection partner and do not sell the items through a charity shop.**

Some charities may choose to undertake their own door to door clothing collection without the use of a commercial collection partner so as to try and increase their profit margins.

Charities that choose to pursue this model may have the staff and/or resources to undertake such collections and may be prepared to accept the commercial risks associated with such collections. Unlike the collection method described above, if there is a downturn in the market, any resulting financial losses that are incurred would have to be met by the charity.

Once the charity has undertaken the collection itself, it can then sell the clothing at the prevailing market price in the same way as commercial collection partners sell the clothing in the method above. However, the charity will have incurred the costs associated with collecting the clothing, which will be higher if paid staff are used.

### **3. Charities that undertake their own door to door clothing collections and which sell the collected items through their charity shops.**

A small number of charities have charity shops, through which they can sell clothes. Charity shops provide good quality, affordable clothing and other items.

Some of these charities choose to undertake door to door clothing collections, using either paid staff or volunteers. They then retail a percentage of the better quality items in their shops as a means to increasing their potential profit on every tonne of clothing that they collect. The remainder is sold on to merchants at the prevailing commercial market rate, before being exported for re-sale in a similar manner to clothing collected via methods' 1 and 2 above.

The charity itself will be bearing additional costs and physical burdens when undertaking door to door clothing collections of this nature. They will also be realising additional financial risks. By using volunteers as opposed to paid staff a charity can reduce its costs.

#### What is the situation with bogus collections?

Unfortunately, there are a number of clothing collectors who give the impression that they are collecting for a charitable or philanthropic cause, but all monies go to commercial operations. Some collectors will put out leaflets pretending to be a legitimate charitable collection, or will simply take bags that were intended for legitimate charity collections.

#### How can the public distinguish between legitimate and bogus collection materials?

There are a few simple things that you can do to check whether the collection leaflet or bag that you have received is a genuine charitable collection. You can:

- Check to see if the collection purports to support a genuine UK registered charity (with the registration number given). This should not be confused with other numbers like "Company Numbers" or "Export Numbers".
- Check that there are genuine contact details for the Charity on the bag.
- See if the collection organiser bears accepted kitmarks, such as the Fundraising Standards Board (FRSB) tick, the Charity Retail Association (CRA) logo or Institute of Fundraising (IoF) membership logo.
- Check with the local authority to see whether the collection is licensed. With the exception of a few big national collection charities, most charitable door to door collectors are required to obtain a licence from the local authority where they collect.
- Contact the charity that the collection will supposedly benefit, as they can tell you if a genuine collection is being done in your area or not.

The Charity Commission ([www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)) and the Charity Retail Association ([www.charityretail.org.uk](http://www.charityretail.org.uk)) provide further guidance on giving to legitimate collections.

#### How can bogus collections be reported?

When it comes to tackling bogus collections, there are a number of options available for both reporting and understanding the issues. From a legal point of view, bogus collections generally fall into one of two categories of crime:

- 1) **Fraudulent collections** are collections where individuals/companies mislead the public into thinking that charities will benefit, when in fact all the money will go to private individuals or companies. This can be done either by using details of a charity that does not exist, or replicating information of a genuine charity without permission.

Fraudulent collections should be reported to the National Fraud Intelligence Bureau (NFIB) charity desk on 0207 601 6999 or [Charity.fraud@cityoflondon.police.uk](mailto:Charity.fraud@cityoflondon.police.uk). Organisations or individuals can also send copies of complaints to the relevant Local Authority or Trading Standards (if a company is involved), and if the collection is purporting to be for the benefit of an existing charity, it may be best to also notify them.

- 2) **Theft** occurs when bags are left out with the intention that specified charities will benefit, but they are taken by people with no link to the charity. Theft should be reported to the local police force, as they are the only ones with jurisdiction to deal with it. Again, for information, it may be best to send a copy of the complaint to the NFIB, the Local Authority and the relevant charity, to ensure as many people have the information as possible.

The sector and enforcement agencies have created an array of information and tools to tackle the problem of bogus collections, including standardised reporting tools by the CRA and TRA and a Trading Standards toolkit for enforcement professions on how to proceed.

The IoF and the CRA have also produced Codes on how to run legitimate collections, making it easier for the public to distinguish these legitimate collections from the bogus collections.

As there is so much information available and this information is regularly updated, the IoF has created a webpage that pulls together all of the different information from different organisations, making it easy for the sector and the public to stay abreast of the tools that can be used to help.

Organisations can request specific information which is included on this page and anyone can access the information and resources on the page, which can be found at: [www.institute-of-fundraising.org.uk/boguscollections](http://www.institute-of-fundraising.org.uk/boguscollections)



**Charity Retail Association™**  
The voice of charity retail



### **About the Institute of Fundraising**

The **Institute of Fundraising** is the professional membership body for UK fundraising, working to promote the highest standards in fundraising practice and management. The **Institute of Fundraising's** mission is to support fundraisers, through leadership, representation, standards setting and education, to deliver excellent fundraising.

Committed to raising standards in fundraising practice and management, we engage with charities, Government, media, the general public and other bodies to positively influence the UK fundraising environment. We work to nurture the knowledge and standards of all those who undertake fundraising, offering an extensive range of training and networking opportunities.

The Institute represents over 5,000 fundraisers and 330 fundraising organisations, providing information and support services for Individual and Organisational members.

### **Contact information**

Institute of Fundraising

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[www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)

Please bear in mind that the Institute does not give professional legal or accounting advice, and while care has been taken with this briefing, you should seek advice before taking any actions or incurring costs.

## Appendix 4.

### Office for Civil Society provisional position on appeals under the House to House Collections Act 1939

Where a local licensing authority refuses to grant a licence (or revokes a licence), there is a right of appeal to the Minister for the Cabinet Office (under section 2(4) of the House to House Collections Act 1939). Under section 2(4), local licensing authorities must set out in writing their decision including the grounds for refusal (or revocation), and must inform the applicant of their right of appeal to the Minister for the Cabinet Office. Any such appeal may be brought within 14 days of the date of the notice.

As a starting point, house to house collections appeals will be considered afresh on their merits, based on the information provided by the applicant to the local licensing authority, and any additional information provided to us by either party. This approach represents a shift, based on legal advice, from our previous position of simply reviewing whether the local licensing authority's decision was one that it could legitimately make (without consideration of the merits of the application).

In determining an appeal on its merits, we will need to consider whether to refuse the application on one of the grounds in set out in sections 2(3)(a) to (f) of the House to House Collections Act 1939 ("the 1939 Act"). These are:

*(a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received);*

*(b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person;*

*(c) that the grant of a licence would be likely to facilitate the commission of an offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;*

*(d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a licence;*

*(e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent*

*prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or*

*(f) that the applicant or holder of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs.*

The most common grounds on which appeals have been received for refusals in recent years are (a), (b) and (f).

In considering the test in (a) above (“the proportionality test”), what we regard as “inadequate” will depend on the nature of the collection. We acknowledge that the costs of conducting certain types of house to house collection (e.g. of second-hand clothing) tend to be higher than other collections (e.g. of cash). In relation to collections of second-hand goods for re-sale, the value of the goods at the point of donation may be low, and it is through the collection and sorting process that value is added, resulting in a saleable product. We will therefore take into consideration reasonable costs of conducting the collection.

In considering the test in (b) above (“the excessive remuneration test”), we will consider whether remuneration or expenses paid out to any persons involved in organising or conducting the collection are at a level that is reasonable for the type of work being undertaken, taking into account that the collection is said to benefit a charitable purpose.

In most cases we will need to ask for more information from both the appellant and local licensing authority unless it has been provided as part of the license application process or when the appeal was lodged. This is likely to include a copy of the relevant commercial participator agreement where a commercial partner is undertaking the collections on behalf of a charity, copies of the collection materials (leaflets/bags), details of some previous collections – e.g. returns provided to local authorities, what steps the promoter takes to secure that collectors are fit and proper persons, whether best practice e.g. membership of the Fundraising Standards Board, mechanism for dealing with complaints etc..

## **Appendix 5.**

### **The Preamble to the Charitable Uses Act 1601**

The following purposes have been found to be analogous to the purposes set out in the Preamble:

- The provision of public works and services;
- The provision of public amenities;
- The protection of life and property;
- The preservation of public order;
- The defence of the realm;
- The promotion of the sound development and administration of the law;
- The social relief, resettlement and rehabilitation of persons under a disability and deprivation;
- The promotion of certain patriotic purposes;
- The promotion of health and the relief of sick, ill and disabled people;
- The care, upbringing and establishment in life of children and young people;
- The training and retraining of and finding work opportunities for unemployed people.



## Appendix 6,

### House to House Collections Act 1939 House to House Collections Regulations 1947

#### Model Application Form for licence to undertake Charitable Door to Door Collections.

To the [Licensing Authority] for (here insert name of [licensing area]).

In pursuance of section 2 of the House to House Collections Act 1939, I hereby apply for a licence authorising me to promote the collection, of which particulars are given below.

Date ..... (Signed) .....

#### PARTICULARS OF COLLECTION

1. Surname of applicant (in block letters).

Other names.

2. Address of applicant.

3. Particulars of charitable purpose to which proceeds of collection are to be applied. (Full particulars should be given including name of organisation, registered address, registered charity number (if applicable) and appropriate contact details, Furthermore, where possible, the most recent account of any charity which is to benefit should be enclosed).

4. Over what parts of the [licensing area] is it proposed that the collection should extend?

5. During what period of the year is it proposed that the collection be made?

6. Is it proposed to collect money?

7. Is it proposed to collect other property? If so, of what nature? and is it proposed to sell such property or to give it away or to use it?

8. Approximately how many persons is it proposed to authorise to act as collectors in the area of which the application is addressed?

9. Is it proposed that remuneration should be paid out of the proceeds of the collection-  
(a) to collectors

(b) to other persons?

If so, at what rates and to what classes of persons?

10. Is application being made for licences for collections for the same purpose in other [licensing areas]?

If so, to what [licensing authorities]?

And, approximately, how many persons in all is it proposed to authorise to act as collectors?

11. Has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?

12. Is it proposed to promote this collection in conjunction with a street collection? If so, is it desired that the accounts of this collection should be combined wholly or in part with the account of the street collection?

13. If the collection is for a War Charity, state if such charity has been registered or exempted from registration under the War Charities Act 1940, and give name of registration authority and date of registration or exemption.

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<sup>i</sup> Remunerate (definition) - to pay, recompense, or reward for work, trouble, etc. Source ([www.dictionary.com](http://www.dictionary.com)).



Public Fundraising *Regulatory* Association

Appendix 3 - May 2013  
**Site Management Agreement**

# Site Management Agreement

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Between PFRA and Wycombe District Council

Prepared by: **Dr Toby Ganley**  
Head of Policy

+44 (0)20 7401 8452  
[toby@pfra.org.uk](mailto:toby@pfra.org.uk)  
[www.pfra.org.uk](http://www.pfra.org.uk)

# 1 Purpose

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The purpose and spirit of this voluntary Site Management Agreement (SMA) is to facilitate responsible face-to-face fundraising in High Wycombe town centre and provide balance between the duty of charities and not-for-profit organisations to fundraise and the rights of the public to go about their business without the impression of undue inconvenience. For the avoidance of doubt, this document does not constitute a legal contract.

Once this agreement is in place it should minimise the administration for the council, providing just one channel for information and support regarding face-to-face fundraisers, as nominated 'gatekeepers' only have to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

## 2 Statement of Conformity

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All fundraisers will abide at all times by the relevant elements of the Institute of Fundraising's [Code of Practice](#), and the PFRA's [Rule Book](#), or face the appropriate penalties.

## 3 Access Details

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### 3.1 Sites, team sizes, positioning, and frequency

Sites may be used as follows, as shown in the map at Appendix 1:

#### High Wycombe:

On the High Street, from Crown Lane to the Guildhall

**Capacity:** maximum of 4 fundraisers

**Positioning:** fundraisers to be spread out along the length of the site

**Frequency:** Mondays, Wednesdays, and Thursdays

Where fundraisers are found to be working outside of the agreed locations, they must comply with requests made by Local Authority Officials and reposition themselves correctly or as directed on-site.

Only one charity will be present on any one site on any one day.

Fundraising will only be permitted between the hours of 9am and 6pm, unless otherwise specified.

Any exclusion dates (e.g specific event days) are to be announced by the Council to the PFRA to be booked into the PFRA's diary management system, giving a minimum of 4 weeks' notice to the PFRA from date of diary delivery.

### 3.2 Other Conditions

Fundraisers should be positioned in such a way as to offer an adequate 'comfort zone' to those users of the public highway who do not wish to engage. In furtherance of this, it is desirable that a minimum footway channel of 1 metre be maintained between fundraisers and the kerb / shop frontage where it is reasonable to do so.

Fundraisers should maintain a reasonable distance (of approximately 3 metres) apart from one another and any other legitimate street activities (e.g. street traders, Big Issue sellers, buskers, newspaper stands, promotional activities and market researching).

## 4 Information Required

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### 4.1 Nominated Gatekeeper

The nominated gatekeeper for Wycombe District Council is Caroline Steven and her contact details are 01494 421222 and [caroline.steven@wycombe.gov.uk](mailto:caroline.steven@wycombe.gov.uk). In her absence all enquiries should be made to Rajinder Bassi and her contact details are 01494 421713 or [rajinder.bassi@wycombe.gov.uk](mailto:rajinder.bassi@wycombe.gov.uk).

### 4.2 Required Information

The PFRA will maintain and manage the diary schedule. Diary/Schedule information will include: contact details for the agency (if applicable); and charity being fundraised for.

Copies of the diary are to be made available to:

Caroline Steven, Licensing Team Leader, Wycombe District Council  
e-mail: [Caroline.Steven@wycombe.gov.uk](mailto:Caroline.Steven@wycombe.gov.uk)

Gillian Stimpson, Community Safety Manager, Wycombe District Council  
e-mail: [Gillian.Stimpson@wycombe.gov.uk](mailto:Gillian.Stimpson@wycombe.gov.uk)

Oliver O'Dell, Town Centre Manager  
e-mail: [oliver@hwtcp.co.uk](mailto:oliver@hwtcp.co.uk)

These contact details shall be updated as and when necessary.

### 4.3 Transition and continuity

Should the nominated gatekeeper move on or responsibilities otherwise change, the gatekeeper will inform his/her successor of the detail of this agreement, the relationship with the PFRA, arrangements for the regulation of face-to-face fundraising, and provide the PFRA with contact details for the successor.

## 5 Complaint Management

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PFRA will respond to and seek to resolve all complaints received, and issue penalties according to its rules. The Council will provide real time notification of any complaints it wishes to be resolved immediately and provide sufficient detail for any retrospective complaints to be investigated. Where the collection agencies or the charities themselves receive complaints it is expected that they will provide information to the PFRA including information about the identity of any individual collector who is subject of a complaint and of the action taken (if any).

Members of the public are encouraged to direct complaints about charity fundraising to the Fundraising Standards Board ([FRSB](http://www.frsb.org.uk)).

## 6 Working Together

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Wycombe District Council agrees to work with the PFRA to raise awareness regarding this site management scheme, including explaining what face-to-face fundraising is, the PFRA, the Code of Practice, and facts about Direct Debit.

The PFRA monitors member organisations, through a programme of random spot-checks, responding to complaints, and other mechanisms, to ensure fundraisers' adherence to the code of practice, PFRA Rules, and Site Management Agreements. The PFRA can give appropriate penalties or sanctions to those not abiding by the rules.

This SMA will be reviewed 6 months after it is signed, and then once every 12 months, if necessary, or earlier if there is just cause to do so. All amendments will be agreed in writing before becoming effective. Either party can withdraw from this agreement, giving 3 months' notice in writing.

Depending on when this agreement is signed, in relation to the PFRA's bidding/allocation cycle, there will be a lead-time of up to 8 weeks before the agreement can be fully implemented.

Signed For and On Behalf Of PFRA:



Dr Toby Ganley, Head of Policy

Date:

21.06.13

Signed For and On Behalf Of Wycombe District Council:



Print name:

Caroline Steven

Job title:

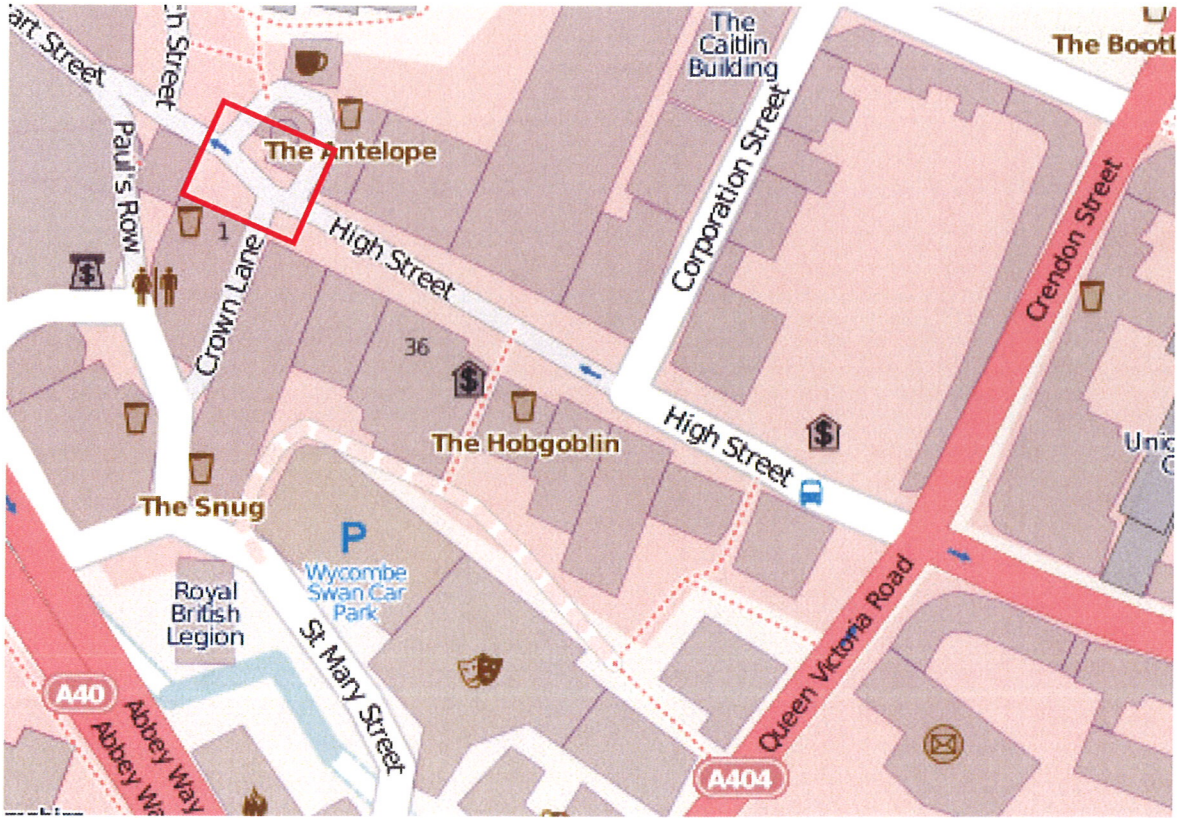
Licensing Team Leader

Date:

20 May 2013

# Appendix 1 - Map

Plan showing the area where fundraising is to be permitted:



## Appendix 2 - Direct Debit Guarantee

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### Know your rights - The Direct Debit Guarantee

Direct Debit is one of the safest ways of making charitable donations. Organisations using the Direct Debit Scheme go through a careful vetting process before they're authorised, and are closely monitored by the banking industry. The efficiency and security of the Scheme is monitored and protected by your own bank or building society.

The Direct Debit Scheme applies to all Direct Debits. It protects you in the rare event that anything goes wrong.

### The Direct Debit Guarantee

- The Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.
- If there are any changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of your account being debited or as otherwise agreed. If you request the organisation to collect a payment, confirmation of the amount and date will be given to you at the time of the request.
- If an error is made in the payment of your Direct Debit, by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society.
  - If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to.
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify the organisation.



# Site Management Agreement

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Between PFRA and Aylesbury Vale District Council

# Purpose

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The purpose and spirit of this voluntary Site Management Agreement (SMA) is to facilitate responsible face-to-face fundraising in Aylesbury town centre and provide a balance between the duty of charities and not-for-profit organisations to fundraise and the rights of the public to go about their business without the impression of undue inconvenience. For the avoidance of doubt, this document does not constitute a legal contract.

Once this agreement is in place it should minimise the administration for the council, providing just one channel for information and support regarding face-to-face fundraisers, as nominated 'gatekeepers' only have to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

# Statement of Conformity

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All fundraisers will abide at all times by the relevant elements of the Institute of Fundraising's [Code of Fundraising Practice](#), and the PFRA's [Rule Book](#), or face the appropriate penalties.

If local authority officers note fundraisers contravening the PFRA's Rule Book or any local clause within the SMA, they will inform the PFRA's Head of Standards by contacting them on 020 7401 8452, providing details of the incident.

# Access Details

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## 1.1 Sites, team sizes, positioning, and frequency

Sites may be used as follows, as shown in the map at Appendix 1:

### Zone One:

Top end of High Street, from black and white bollards outside Boots Opticians ( 3 Market House), up to, but not including the British Legion charity shop (no. 19 -21 High Street) and Lifestyle salon (no. 12 High Street). Fundraisers should remain on the delineated bricked road between the double yellow lines and absolutely not on the paved area directly in front of shop entrances.

Capacity: maximum of 2 branded/working fundraisers (see Appendix 4)

Frequency: Mondays and Tuesdays

### Zone Two:

Under the arches at the bottom of the market square which lead through to the cinema, restaurants, Exchange Street car park and theatre.

Capacity: maximum of 2 branded/working fundraisers (see Appendix 4)

Frequency: Mondays and Tuesdays

Where fundraisers are found to be working outside of the agreed locations, they must comply with requests made by Local Authority Officials and reposition themselves correctly or as directed on-site.

Only one charity will be present on any one site on any one day.

Fundraising will only be permitted between the hours of 9am and 7pm, unless otherwise specified.

Any exclusion dates (e.g specific event days) are to be announced by the Council to the PFRA to be booked into the PFRA's diary management system, giving a minimum of 4 weeks' notice to the PFRA from date of diary delivery.

## 1.2 Other Conditions

Fundraisers should be positioned in such a way as to offer an adequate 'comfort zone' to those users of the public highway who do not wish to engage. In furtherance of this, it is desirable that a minimum footway channel of 1 metre be maintained between fundraisers and the kerb / shop frontage where it is reasonable to do so.

Fundraisers should maintain a reasonable distance (of approximately 3 metres) apart from one another and any other legitimate street activities (e.g. street traders, Big Issue sellers, buskers, newspaper stands, promotional activities and market researching).

## Information Required

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### 1.3 Nominated Gatekeeper

The nominated gatekeeper for Aylesbury Vale District Council is Cat Crelling and her contact details are 01296 585875 or [ccrelling@aylesburyvaledc.gov.uk](mailto:ccrelling@aylesburyvaledc.gov.uk). In her absence all enquiries should be made to Diana Fawcett on [DFawcett@aylesburyvaledc.gov.uk](mailto:DFawcett@aylesburyvaledc.gov.uk) or 01296 585880.

#### Required Information

The PFRA will maintain and manage the diary schedule. Diary/Schedule information will include: contact details for the agency (if applicable); and charity being fundraised for.

Copies of the diary are to be made available to:

Cat Crelling - Licensing Support Officer, Aylesbury Vale District Council  
e-mail: [ccrelling@aylesburyvaledc.gov.uk](mailto:ccrelling@aylesburyvaledc.gov.uk)

Peter Seal – Licensing Services Manager, Aylesbury Vale District Council  
e-mail: [PSeal@aylesburyvaledc.gov.uk](mailto:PSeal@aylesburyvaledc.gov.uk)

Diana Fawcett – Town Centre Manager, Aylesbury  
e-mail: [DFawcett@aylesburyvaledc.gov.uk](mailto:DFawcett@aylesburyvaledc.gov.uk)

These contact details shall be updated as and when necessary.

### 1.4 Transition and continuity

Should the nominated gatekeeper move on or responsibilities otherwise change, the gatekeeper will inform his/her successor of the detail of this agreement, the relationship with the PFRA, arrangements for the regulation of face-to-face fundraising, and provide the PFRA with contact details for the successor.

## Complaint Management

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PFRA will respond to and seek to resolve all complaints received, and issue penalties according to its rules. The Council will provide real time notification of any complaints it wishes to be resolved immediately and provide sufficient detail for any retrospective complaints to be investigated. Where the collection agencies or the charities themselves

receive complaints it is expected that they will provide information to the PFRA including information about the identity of any individual collector who is subject of a complaint and of the action taken (if any).

Members of the public are encouraged to direct complaints about charity fundraising to the Fundraising Standards Board ([FRSB](http://www.frsb.org.uk)).

## Working Together

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Aylesbury Vale District Council agree to work with the PFRA to raise awareness regarding this site management scheme, including explaining what face-to-face fundraising is, the PFRA, the Code of Fundraising Practice, and facts about Direct Debit.

The PFRA monitors member organisations, through a programme of random spot-checks, responding to complaints, and other mechanisms, to ensure fundraisers' adherence to the Code of Fundraising Practice, PFRA Rules, and Site Management Agreements. The PFRA can give appropriate penalties or sanctions to those not abiding by the rules.

This SMA will be reviewed 6 months after it is signed, and then once every 12 months, if necessary, or earlier if there is just cause to do so. All amendments will be agreed in writing before becoming effective. Either party can withdraw from this agreement, giving 3 months' notice in writing.

Depending on when this agreement is signed, in relation to the PFRA's bidding/allocation cycle, there will be a lead-time of up to 8 weeks before the agreement can be fully implemented.

Signed For and On Behalf Of PFRA:

\_\_\_\_\_  
Sally de la Bedoyere, PFRA Chief Executive

Date:

\_\_\_\_\_

Signed For and On Behalf Of Aylesbury  
Vale District Council:



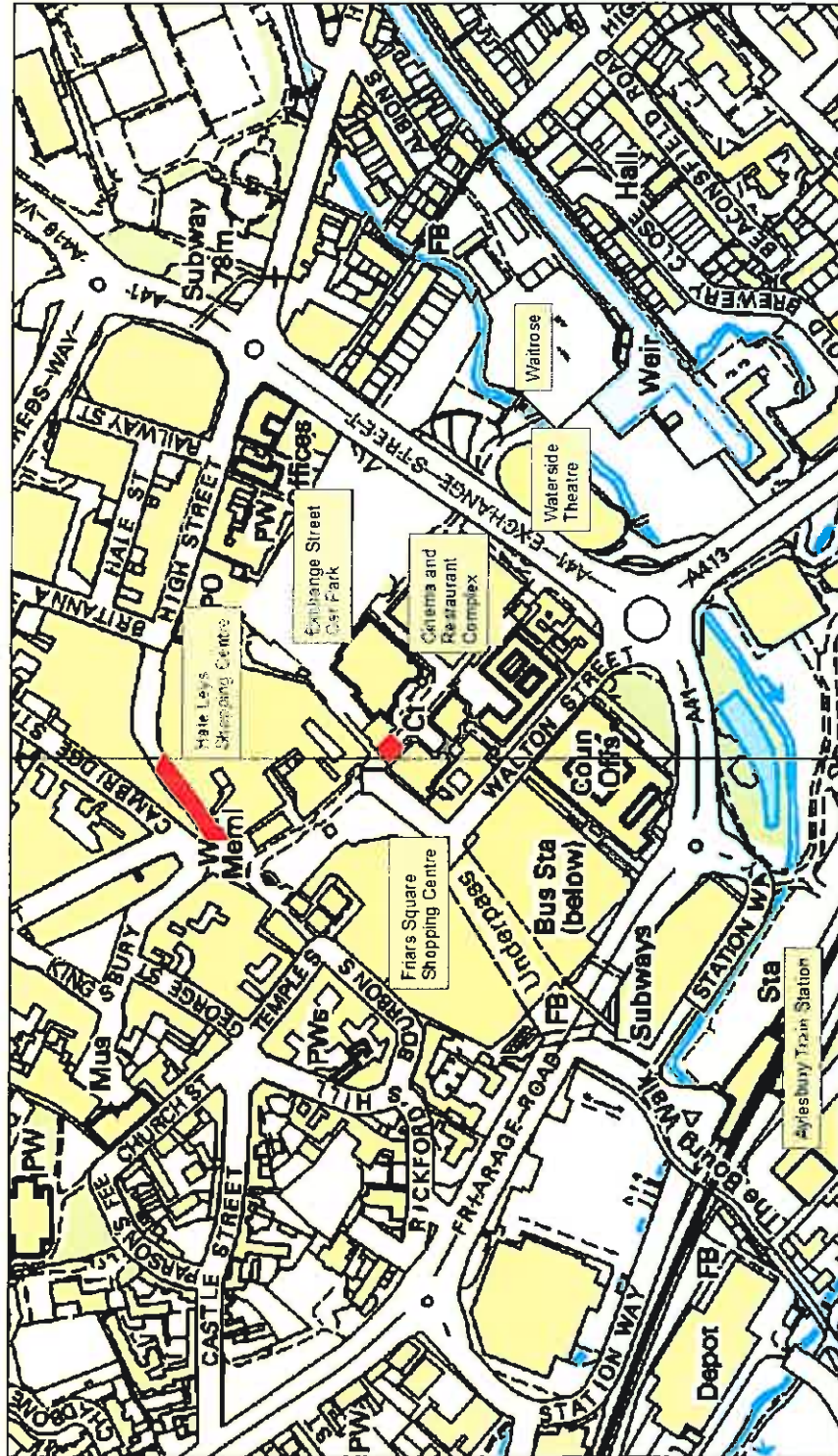
\_\_\_\_\_  
Peter Seal, Licensing Manager

Date:

\_\_\_\_\_  
27-10-14

# Appendix 1 - Map

Plan of Aylesbury Town Centre



Aylesbury Town Centre  
Collection Zones

Key

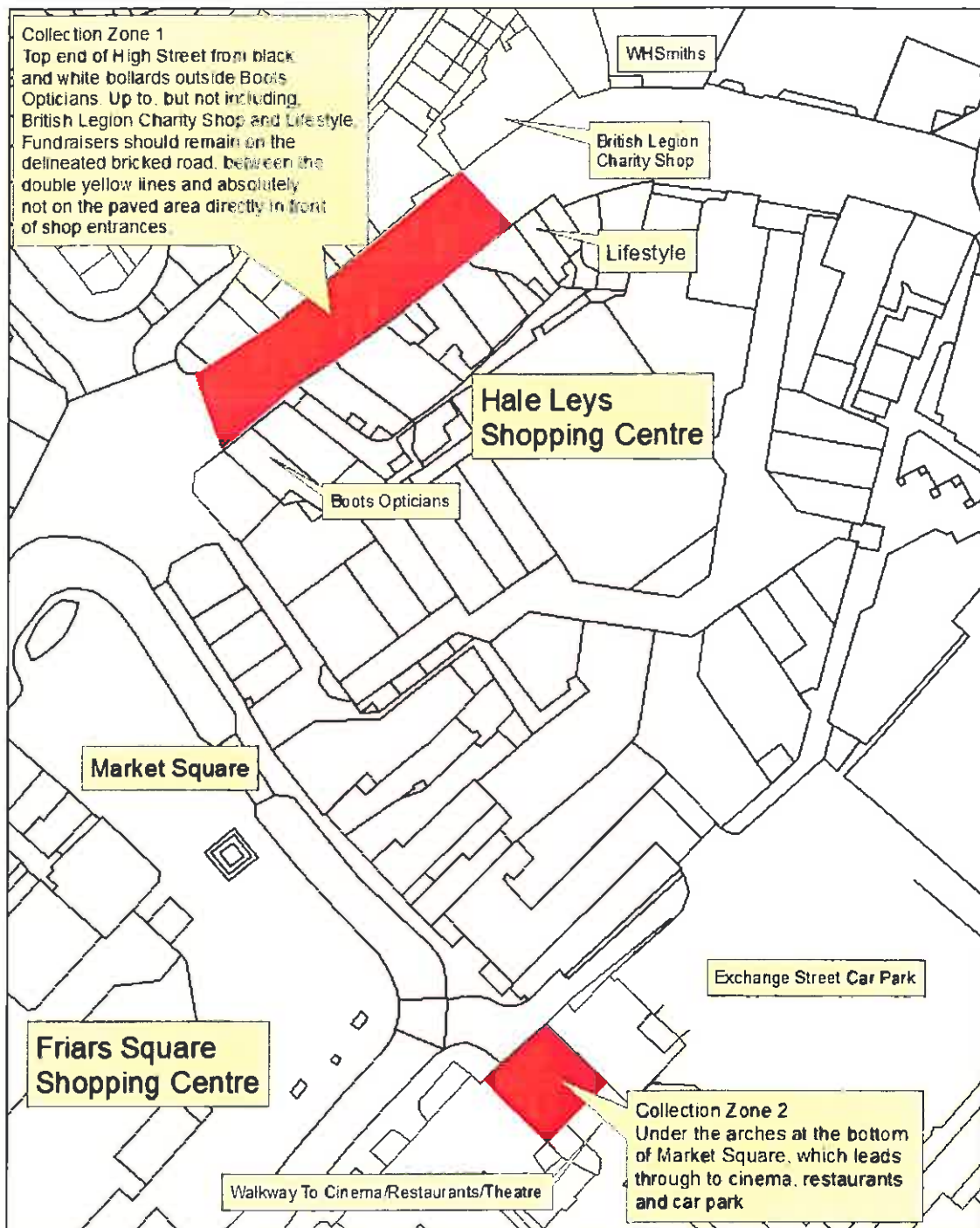
Collection Zones



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# Appendix 2 – Collection zones

Map of collection zones within the town centre.



Aylesbury Town Centre  
 Collection Zones

Key



Collection Zones



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## Appendix 3 - Direct Debit Guarantee

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### Know your rights - The Direct Debit Guarantee

Direct Debit is one of the safest ways of making charitable donations. Organisations using the Direct Debit Scheme go through a careful vetting process before they're authorised, and are closely monitored by the banking industry. The efficiency and security of the Scheme is monitored and protected by your own bank or building society.

The Direct Debit Scheme applies to all Direct Debits. It protects you in the rare event that anything goes wrong.

### The Direct Debit Guarantee

- The Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits.
- If there are any changes to the amount, date or frequency of your Direct Debit the organisation will notify you (normally 10 working days) in advance of your account being debited or as otherwise agreed. If you request the organisation to collect a payment, confirmation of the amount and date will be given to you at the time of the request.
- If an error is made in the payment of your Direct Debit, by the organisation or your bank or building society, you are entitled to a full and immediate refund of the amount paid from your bank or building society.
  - If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to.
- You can cancel a Direct Debit at any time by simply contacting your bank or building society. Written confirmation may be required. Please also notify the organisation.

