



Report to Licensing and Regulatory Committee

Date: 1st February 2023
Title: Draft Charitable Collections Policy
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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.
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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

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