

Report to	-	Licensing and General Purposes Committee
Date	-	24 July 2014
Report of the	-	Executive Director of Business Operations
Subject	-	House to House Collections and Street Collections

Recommendation to COUNCIL: That the revised policies for house to house and street collections be approved and adopted.

Service Manager: Richard Parker-Harding

House to House Collections

1. As a general rule, house to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the law, are required to be licensed by the Council under the House to House Collections Act 1939 and the House to House Collections Regulations 1947.
2. The definition of 'collection' extends beyond requests for money, and includes the sale of magazines, requests for unwanted clothing and household items, and visits to persuade persons to buy goods etc. where any part of the proceeds may go to charity. It should be noted that collectors going from pub to pub to collect have been held to be carrying out a house to house collection.
3. The only exception to the general rule is for organisations that hold a Cabinet Office Exemption Order under Section 3 of the 1939 Act. This allows the organisation to collect across the country without applying for a licence from each Licensing Authority. The organisation must still comply with the regulations and provisions of the Act and must inform the relevant Licensing Authority of the dates and areas for the planned collections.
4. With regard to direct debits, the 1939 Act defines collection 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'*. On this basis, direct debits can be classed as the giving of either money or property by way of bank account details therefore direct debit collections will normally fall under the remit of the Act and a licence will be required to hold such a collection.
5. The Council has adopted procedures and these are set out in Appendix A.
6. It is proposed that the following principles and procedures are also adopted, in addition to the current procedures:
 - a) Only charities registered with the Charity Commission or that assist the locality should be licensed;
 - b) Only one collection per area per day; and

- c) Only one application for any one charity or organisation in a calendar year in each respective locality.
7. With regard to clothing collections, some charities are employing commercial operators to carry out house to house collections on their behalf. The commercial operator will then donate an amount to the charity. This may be small in comparison to the potential levels of income from this operation. To ensure that the charity receives as much as possible from the proceeds of the collection, the Council specifies that over 50% of the 'whole proceeds' must be donated to charity. The 'whole proceeds' is the amount received for the donated collections before any costs are deducted.
 8. Before an application is submitted, potential applicants should contact the Licensing Officer to check the availability of dates for any collection.
 9. The application form for house to house collections is a prescribed form, as set out in the second schedule to the regulations.
 10. Applications can only be made for collections to be held on a weekly, fortnightly or monthly basis.
 11. Once an application has been received, the officer shall check that it has been completed correctly and meets all the principles. An application form must be received at least 28 days before the date of the collection.
 12. In order to determine the application, the following supporting documentation will be requested:
 - a) Literature about the organisation;
 - b) A copy of the published accounts for the past 2 years;
 - c) A copy of the statement of accounts from the last 4 collections carried out;
 - d) A letter from the charitable organisation authorising the organisation to collect on their behalf; and
 - e) Agreement or contract details with the charity / individual benefiting from the collection.
 13. For clothing collections, if the organisation is a sub-contractor acting on behalf of the charity, they will need a waste carrier's licence from the Environment Agency. Therefore, the officer shall request a copy of the organisation's licence to ensure that they are authorised to transfer the waste.
 14. If the dates on the application clash with another collection, the officer shall contact the organisation and offer alternative dates. If the organisation is not willing to change then the Licensing Authority can reject the application.
 15. Another consideration is whether or not the organisation has previously held a licence. If so, a check will be made that they have submitted the required return for their previous collection. If not, the application may be rejected, on this basis as they have failed to comply with the requirements of the Act and its regulations
 16. The officer can analyse the expenses and costs of the collections to determine how much money is being given to charity out of the proceeds. Most organisations can provide this information on an average amount per tonne basis. Based on the figures provided, it is for the Licensing Authority to

decide if enough money is being given to charity or whether too much is being deducted as expenses.

17. An application for a House to House collection can be refused on any of the following grounds:
 - To limit the number of collections in line with any policy made;
 - If too high a proportion of the proceeds are likely to be deducted for expenses;
 - If not enough of the proceeds are to be given to the charity or cause;
 - If incorrect or false information is provided on the application form;
 - If the promoter or any other person involved in the collection has been convicted of certain criminal offences e.g. burglary, blackmail or fraud; or
 - If any person is excessively remunerated.
18. If the Licensing Officer is minded to refuse the application for any of the reasons listed above then the application may be referred to the General Licensing Panel for determination. Once a decision to refuse an application has been made then a refusal letter must be sent detailing the reasons for the refusal and advising the organisation of their right to appeal to the Secretary of State within 14 days of the date on which notice of refusal is given.
19. If the refusal of the application is due to the organisation not supplying the required information then the organisation may provide the requested information on receipt of the refusal letter. The Licensing Officer can then reconsider the application and determine it having regard to the additional information.
20. Once a licence is issued, the Licensing Authority has the power to revoke it, either on the same grounds that they can refuse to grant, or that they have received information to indicate that the charity is not a bona fide charity.
21. If the Licensing Officer is satisfied with the application then the licence can be issued with a supporting letter. Once the collection has been held, the organisation must return the financial return from the collection to the Licensing Authority within one month of the date of the collection. Failure to forward the return is an offence under the Act. The organisation must also comply with the requirements of the Regulations during the collection. These include a responsibility for promoters to ensure that all collectors are fit and proper persons and have a certificate of authority, prescribed badge and collecting box or receipt book if money is collected. No person under 16 can collect money.

Street Collections

22. Licensing Authorities have the power to licence collections that are made in 'any street or public place' for 'the benefit of charitable or other purposes' under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, section 5, as amended by the Local Government Act 1972, section 251 and schedule 29. Charitable Collections (Transitional Provisions) Order 1974.
23. A street is defined by section 5(4) of the Act as including any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a

thoroughfare or not. The definition of 'public place' means any place where the public has access and will include the entranceways to shops. Although the foyer of a supermarket could be considered to be 'behind closed doors' and subject therefore only to the discretion and approval of the manager, any collection outside and / or in the car park would require a licence, as the public have access to it.

24. In relation to collections of direct debits for charitable purposes, (known as chugging) these do not fall within the definition of the legislation and do not require a street collection permit.
25. Appendix B sets out our current procedures.
26. It is proposed that the following principles and policies are also adopted, in addition to the current procedures.
27. In order to have some control over the number of collections in the district, only collections for charities that are registered with the Charity Commission or collections that benefit people locally, should be made. Only one collection is permitted in one area on one day. Permits will be issued by Battle and Rye Town Councils for areas under their jurisdiction, acting as agents for the Council.
28. Generally, no payment must be made to any collector, or to any person connected with the promotion or conduct of the collection, indirectly or directly out of the proceeds of the collection without the approval of the Council. The majority of charities will use volunteers for street collections. Payments to collectors are discouraged, as it is contrary to the objective of maximising income for the charitable institutions. Reimbursement of reasonable expenses is generally accepted, provided that it is within an acceptable overall proportion of the total amount collected. Each collection shall be considered on an individual basis by the Licensing Officer but all payments must be agreed in advance.
29. Before an application is received, applicants should check the available dates for any collection.
30. The application form for a street collection is prescribed. The application form must be received at least 28 days (currently 14 days) before the date that the collection will take place.
31. The Licensing Officer may wish to request some further documentation in support of the application which could include literature about the organisation, a copy of the published accounts for the past 2 years, a copy of the statement of accounts for the last 4 collections carried out, a letter from the charitable organisation authorising the collecting organisation to collect on their behalf and agreement or contract details with the charity / individual benefiting from the collection.
32. Some applicants may wish to collect in a street that is open to the public but is in private ownership, e.g. a shopping centre. In these circumstances the applicant must have permission from the landowners before they can collect. This permission must be in writing and accompany the application form.

33. If the application clashes with another collector on the same date, the Licensing Officer shall contact the organisation and offer alternative dates. If the organisation is not willing to change the date, then the Licensing Officer can reject the application.
34. Once an application has been received and considered, the Licensing Authority can either grant a licence specifying the requested date and/or location, or refuse it.
35. There are no restrictions on the grounds for refusing an application for a street collection and there is no right of appeal.
36. Examples of reasons for refusal of an application for a street collection include:
 - The charity is not registered with the Charity Commission;
 - The charity does not benefit any local causes;
 - Suspicions that the collector is not actually collecting for the charity named;
 - The financial return from the last collection has not been returned; and
 - No agreement can be reached on the reasonable expenses that can be deducted from the proceeds collected.
37. A revocation may be the best option if information is received that the money collected is not reaching the charity, the collectors are not fit and proper persons or money is being deducted from the expenses without agreement.
38. If the Licensing Authority is satisfied with the application then the licence can be granted and issued with a supporting letter. During the collection, the promoter must not allow anyone to collect money, or sell goods, unless they have been given written authority. The promoter must ensure that all people acting as collectors are fit and proper persons and comply with the appropriate legislation.
39. After the collection, the promoter must forward to the Licensing Authority a financial return form showing details of the monies collected and deductions made, no later than one month after the collection.

Conclusion

40. The Council has adopted procedures for dealing with house to house and street collections which need amending to take into account changing methods of collection.

Anthony Leonard
Executive Director of Business Operations

Risk Assessment Statement

The Council needs to have adopted a clear set of operating principles and procedures in relation to licensing charity collections to withstand any challenges.

House To House Collections Regulations 1947

The above Act and the regulations made thereunder contain important provisions for the regulation of house-to-house collections for charitable purposes and prescribe fines and/or imprisonment for offences against the Act or the Regulations.

1. Except in the cases specified in paragraphs 3 and 4:-
No collection in any locality for a charitable purpose may be made unless the promoter is licensed by the Licensing Authority for the area comprising that locality, and the collectors are authorised by the promoter.
2. Application for a licence must be made in the prescribed manner. The licensing Authority cannot grant a licence for a period longer than 12 months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the Act.

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

3. When the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part, of England and Wales, and is desirous of promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such a person shall be exempt from the requirement to obtain licences from the Licensing Authority, as respects all collections for that purpose in such localities as may be prescribed in the Order.
4. If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be made, is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a certificate in the prescribed form; and where a Certificate is so granted, a licence from the Licensing Authority is not required, and the provisions of the regulations (as to which see Paragraph 5 below) shall not apply to a collection made in conformity with such Certificate.
5. Regulations have been made by the Secretary of State under the Act. The Regulations include the following, amongst other provisions:
 - a) Every promoter of a collection must exercise all due diligence to secure that persons authorised to act as collectors are fit and proper persons; and to secure compliance by collectors with the regulations.
 - b) No promoter of a collection shall permit any person to act as a collector unless he has issued to that person:
 - (i) a prescribed Certificate of authority
 - (ii) a prescribed badge and
 - (iii) if money is to be collected, a collecting box marked, or a receipt book (with receipts and counterfoils or duplicates consecutively numbered) marked on every receipt, with a general indication of the purpose of the collection, and a distinguishing number.

- c) In the case of a collection in respect of which a licence has been granted, every prescribed Certificate of Authority shall be given on a form obtained from H.M. Stationery Office, and every prescribed badge shall be so obtained.
- d) No person under the age of 16 years, shall act or be authorised to act as a collector of money.
- e) 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.
- f) The promoter of a collection must furnish an account of the collection the form prescribed to the Licensing Authority or the Secretary of State, as the case may be.

DEFINITIONS

Charitable Purpose - any charitable, benevolent, or philanthropic purpose.

Collection - 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.

Collector - a person who makes the appeal in the course of such visits.

House - includes a place of business.

Proceeds - means, in relation to a collection, all money and all other property given, whether for consideration or not, in response to the appeal.

Promoter - a person who causes others to act as collectors for the purposes of the collection.

Regulations made by Rother District Council with regard to Street Collections

In pursuance of section 5 of the Police Factories etc. (Miscellaneous Provisions) Act 1916, as amended by section 251 and schedule 29 to the Local Government Act 1972, Rother District Council hereby makes the following Regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within the District of Rother 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.

[Note: The Council has appointed Battle and Rye Town Councils to act as its agents in determining and administering applications for street collections within Battle and Rye respectively. References within the following Regulations to Rother District Council shall in the case of applications for street collections within Battle and Rye be deemed to refer to the respective Town Council].

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 Rother District unless a promoter shall have obtained from Rother District Council a permit.
3. Application for a permit shall be made in writing not later than 30 days (currently 14 days) before the date on which it is proposed to make the collection: Provided that Rother District Council may reduce the period of 30 (currently 14) days if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. Rother District Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (1) No person may assist or take part in any collection without the written authority of a promoter;
(2) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of Rother 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 Rother District 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.
While collecting -
10. (a) a collector shall remain stationary; and
(b) a collector or 2 collectors together shall not be nearer to any other collector than 25m.

Provided that Rother District 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 16 years to act as a collector.
12. (1) Every collector shall carry a collecting box.
(2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
(3) All money received by a collector from contributors shall immediately be placed in a collecting box.
(4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear / display prominently thereon the name of the charity or fund which is to benefit, nor any collecting box which is not duly numbered.
14. (1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person.
(2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
(3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person and one of the other people present.
15. (1) No payment shall be made to any collector.
(2) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by Rother District Council.
16. (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to Rother District 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 either a qualified accountant or an independent, responsible person acceptable to Rother District Council;

(b) a list of the collectors; and

- (c) a list of the amounts contained in each collecting box; and shall, if required by Rother District Council, satisfy it as to the proper application of the proceeds of the collection.
- (2) The said person shall also, within the same period, at the expense of that person and after the accounts have been certified in the matter set out in paragraph (1)(a) above, publish in such newspaper or newspapers as Rother District Council may direct, a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected and the amount of the expenses and payments incurred in connection with such collection.