

Public Document Pack

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A meeting of **General Licensing Committee** will be held in Committee Room 2 - East Pallant House on **Wednesday 12 February 2020 at 9.30 am**

MEMBERS: Mr G McAra (Chairman), Mr A Moss (Vice-Chairman), Mrs T Bangert, Mr J Elliott, Mr G Evans, Mr K Hughes, Mr C Page, Mr H Potter, Mr A Sutton and Mrs S Taylor

AGENDA

1 **Chairman's Announcements**

Any apologies for absence that have been received will be noted at this point.

2 **Minutes** (Pages 1 - 5)

To approve as a correct record the minutes of the General Licensing Committee meeting held on 27 February 2019.

3 **Urgent Items**

Chairman to announce any urgent items which due to special circumstances are to be dealt with under agenda item 8b.

4 **Declarations of Interests**

Details of members' personal interests arising from their membership of parish councils or West Sussex County Council or from their being Chichester District Council or West Sussex County Council appointees to outside organisations or members of outside bodies or from being employees of such organisations or bodies.

Such interests are hereby disclosed by each member in respect of agenda items where the Council or outside body concerned has been consulted in respect of that particular item or application.

Declarations of disclosable pecuniary interests, personal interests and prejudicial interests are to be made by members of the Committee in respect of matters on the agenda or this meeting.

5 **Public Question Time**

Questions submitted by members of the public in writing by noon on the previous working day (for a period of up to 15 minutes).

6 **Revised Fees and Charges 2020 for the Animal Welfare Licensing Regime** (Pages 7 - 11)

This is a recommendation from the January 2020 Cabinet meeting.

That the Committee approves the new fees and charges for 2020.

- 7 **The Council's proposed revised House to House Collection Policy** (Pages 13 - 22)
That the Committee approve the revised policy. *(To note: the changes within the policy are highlighted in red).*

- 8 **Consideration of any late items as follows:**
(a) Items added to the agenda papers and made available for public inspection;
(b) Items which the chairman has agreed should be taken as matters of urgency by reason of special circumstances to be reported at the meeting.

Part 2

(Items for which the press and public are/may be excluded)

That in accordance with section 100A of the Local Government Act 1972 (the Act) the public and the press be excluded from the meeting during the consideration of the following item on the agenda for the reason that it is likely in view of the nature of the business to be transacted that there would be disclosure to the public of "exempt information" being information of the nature described in Paragraph 1 (information relating to any individual) of Part I of Schedule 12A to the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

There are no restricted items for consideration by the General Licensing Committee at this meeting.

- 9 **Exclusion of the press and public**

Part 2

(Items for which the press and public are/may be excluded)

That in accordance with section 100A of the Local Government Act 1972 (the Act) the public and the press be excluded from the meeting during the consideration of the following item on the agenda for the reason that it is likely in view of the nature of the business to be transacted that there would be disclosure to the public of "exempt information" being information of the nature described in Paragraph 1 (information relating to any individual) of Part I of Schedule 12A to the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

There are no restricted items for consideration by the General Licensing Committee at this meeting.

NOTES

1. The press and public may be excluded from the meeting during any item of business whenever it is likely that there would be disclosure of exempt information as defined in section 100I of and Schedule 12A to the Local Government Act 1972
2. The press and public may view the agenda papers on Chichester District Council's website at [Chichester District Council - Minutes, agendas and reports.](#)
3. This meeting will be audio recorded and the recording will be retained in accordance with the council's information and data policies. If a member of the public makes a

representation to the meeting they will be deemed to have consented to being audio recorded. By entering the committee room they are also consenting to being audio recorded. If members of the public have any queries regarding the audio recording of this meeting please liaise with the contact for this meeting detailed on the front of this agenda.

4. Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of this meeting from the public seating area is permitted. To assist with the management of the meeting, anyone wishing to do this is asked to inform the chairman of the meeting of their intentions before the meeting starts. The use of mobile devices for access to social media is permitted, but these should be switched to silent for the duration of the meeting. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography. Filming of children, vulnerable adults or members of the audience who object should be avoided.

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Minutes of the meeting of the **General Licensing Committee** held in Committee Room 2 - East Pallant House on Wednesday 27 February 2019 at 9.30 am

Members Present: Mr J Ridd (Chairman), Mr H Potter (Vice-Chairman), Mr P Budge, Mr A Collins, Mr J Connor, Mr L Macey, Mr G McAra, Mr A Moss, Dr K O'Kelly, Mr C Page, Mrs P Plant and Mrs C Purnell

Members not present: Mr J Elliott and Mrs S Taylor

In attendance by invitation:

Officers present: Mr S Bingham (Licensing Technician), Mr L Foord (Divisional Manager for Promotion and Events), Mr D Knowles-Ley (Licensing Officer), Miss H Guidici (Licensing Assistant), Mr N Bennett (Divisional Manager for Democratic Services) and Miss S Hurr (Democratic Services Officer)

16 **Chairman's Announcements**

Apologies were received from Mr J W Elliot and Mrs S Taylor.

17 **Minutes**

RESOLVED

That the minutes of the meeting held on 7 November 2018 be approved and signed by the Chairman as a correct record.

18 **Urgent Items**

There were no urgent items.

19 **Declarations of Interests**

Mr Bennett confirmed that any further personal interests relating to WSCC or parish council membership would be listed in the minutes (see below):

- Mr P Budge – a member of Chichester City Council
- Mr A Collins – a member of Chidham and Hambrook Parish Council
- Mr G McAra – a member of Midhurst Town Council
- Dr K O'Kelly – a member of WSCC
- Mr H Potter – a member of Boxgrove Parish Council

· Mr J Ridd – a member of Donnington Parish Council

20 **Public Question Time**

There were no public questions.

21 **The Council's proposed House to House Collection Policy**

Mr Knowles-Ley introduced the item, and Miss Guidici who had produced the report and was attending the committee for the first time. He explained that 'House to House Collections' refer to both the collection of money, unwanted property and the sale of goods where any part of the proceeds may go to charity, for which a licence granted by the Council is required. The Council has not previously had a House to House Collections Policy and therefore has relied upon the basic statutory controls to refuse or revoke a licence, which are open to interpretation. Without a policy in place it is difficult to refuse a licence, and doing so leaves the Council open to challenge.

Mr Knowles-Ley further explained that in 2018 the Council as Licensing Authority had received complaints regarding unlicensed collections within the district. A number of recent licensed collections had also resulted in a low percentage of the proceeds from the collections being passed to charities with an example of just 15% being cited. Adopting a local policy as a framework for administration and enforcement will provide a number of benefits including restricting the number of collections, stipulating the percentage of the proceeds given to the relevant charity (minimum 70%) and ensuring applicants provide evidence that they are 'fit and proper' via a criminal record check. Putting such measures in place will provide reassurance to the public.

The Chairman queried that this did not apply to major charities which are not required to obtain a licence, but local organisations only, which was confirmed as correct by Mr Knowles-Ley where the charity is a holder of a national exemption order issued by the Department for Digital, Culture Media and Sport. In response to further questions from members of the committee Mr Knowles-Ley confirmed that collections for local jumble sales would require a licence where the unwanted property is being collected door to door. Mr Knowles-Ley acknowledged the committees support regarding the threshold of a minimum percentage of proceeds to charities, explaining that this information would be confirmed via the application process. Mr Foord further confirmed that the proposed policy would protect the public, deter less scrupulous applicants and allow greater monitoring of this activity. Mr Knowles-Ley also explained that timings around national charity collections could be more easily controlled and therefore, potentially ensure more successful collections. Mr Knowles-Ley confirmed that information regarding collections can be found via the Council website.

Members asked if special situations could be considered, for example collecting unwanted items for environmental purposes? Mr Knowles-Ley agreed that this could be included within the policy.

In response to Members asking questions regarding what could be done to limit the excessive numbers of collection bags received, Mr Foord responded that consideration was also being given to working with West Sussex County Council Trading Standards.

Members of the committee expressed concerns about the collection bags which are made of single-use plastic and the Chairman requested that an update regarding plastic is brought back to the committee in six-months-time. Mr Bennett responded that Mr Buckley is leading work within the Council regarding single-use plastic and suggested that twelve-months-time, may be more appropriate. Mr Knowles-Ley advised that the letter sent when granting a licence could be amended to encourage use of bio-degradable bags and the collection of unused bags from doorsteps. Members supported this proposal.

In response to questions regarding the major charities which may collect without a licence granted by the Council, Mr Knowles-Ley confirmed a link to the appropriate Government website providing information about such charities could be added to the Council website.

Mr Foord thanked members for bringing the issue of plastic bags to the officers' attention, as this had not been previously considered.

Resolved

That the House to House Collections Policy is amended to include 'collections for environmental purposes', and adopted.

22 Proposed amendments to existing taxi and private hire licensing policy/conditions and service updates

Mr Bingham introduced the item which includes proposed amendments to policies to improve the standard and safety of the taxi and private hire service within the district. Mr Bingham explained that in relation to the drivers' process there are currently two approved providers of driving assessments for prospective drivers and a third provider is required to resource the demand. The assessment is similar to a standard driving test with the addition of examining how drivers react to given situations, with a pass or fail result.

Mr Bingham explained that revisions are now being sought to the current policies and conditions for both 'Private Hire' and 'Hackney Carriage' in order to provide a better service as a licensing authority and provide greater flexibility to the trade. This will include a proposal to grant three year licences only as opposed to one year licences with the option of an appropriate refund should a driver no longer require a licence before the three years have ended. The proposals do not amount to a comprehensive review of policies but target changes which will reinforce public safety, reduce the administrative burden on the Council as a licensing authority and make operating the service easier for the trade.

In response to members' questions regarding the use of magnetic or stick-on licensed vehicles provided by the Council, Mr Bingham explained that once a

vehicle is licensed the required signage must remain in place at all times. Providing magnetic signage (which will now cease going forward for all new applications) allows easy removal rather than stick-on signage. However, officers are observing that licence holders are removing magnetic signage when allegedly using a vehicle for private purposes.

In response to questions from members regarding 'exempt' vehicles, Mr Knowles-Ley explained that the Council currently accepts that such vehicles were used for work such as contract bookings or 'high-end' chauffeur services, and as a result of undertaking such work, were not required to display the standard door signage and identification plate on the rear of the vehicle. Previously there had been a high number of such vehicles but much work has been undertaken recently to scrutinise applications seeking an exemption. Applications seeking an exemption are now robustly challenged, with a declaration required and the subsequent booking records for a particular vehicle open subsequent examination. Exemption should be for genuine reasons only, and following the increased scrutiny of applications the numbers of exempt vehicles have decreased significantly.

Further discussion regarding the offence of 'using a mobile phone while driving' concluded that the wording should be altered to using a handheld 'device'. Mr Foord responded that the wording in the policy can be expanded, but it should be noted that the specific offence is CU80.

In response to further questions from members of the committee, Mr Bingham confirmed that although drivers may have 7-9 points on their licences, these may be gained from a single offence. Mr Bingham provided an example whereby an applicant had been awarded 6 points for a driving offence, but was awarded additional points for failing to return in time their DVLA licence for endorsement. New applicants who have points on their driving licences, are invited for a meeting to discuss the nature of the points, and if necessary are referred to the sub-committee for a decision. Mr Knowles-Ley added that should licensed drivers incur points, they are duty-bound to inform the Council and that officers consider whether any action is required.

The 'Knowledge Test' pass rate was confirmed as low on the first attempt with improvement at re-sit following further preparation and research. Mr Knowles-Ley confirmed that the knowledge test is working well, with committed drivers persevering to pass and discouraging those who are less committed. Drivers are not required to re-sit the test once they have passed but as necessary do receive updates regarding changes in legislation and other relevant matters from the Council.

Mr Bingham confirmed drivers are not required to wear a seat belt when a passenger is on board, and drivers must assist a passenger using a wheelchair, unless they have a medical certificate exempting them from providing such assistance.

In response to members' questions regarding the changes to the policies, and whether items should be brought back to the committee, Mr Knowles-Ley explained that the intention of the report was to provide feedback following members ratifying

the last policy. The purpose of the report is to provide members with a flavour of revisions which are considered necessary which can be brought back to the committee at a later meeting.

With regards to questions relating to 'Uber', Mr Knowles-Ley confirmed that Uber Britannia Limited has been granted a five year operator's licence by the committee, it has an operating base within Chichester. Any person can choose to apply to this authority to gain their vehicle and drivers licence. Once licensed, drivers who are based (reside) potentially within or outside the district can register to undertake work for Uber Britannia Limited via the online 'Uber' platform. This means that when a booking is sought via the platform from any location (both within and outside of the Chichester district) a driver licensed by this licensing authority can request the fare and if successful the booking is routed through the Chichester operating base sent to the driver for servicing. This process highlights the importance of the signage on vehicles, and vehicles and drivers being fully compliant as commonly drivers and vehicles licensed by this licensing authority are working outside of the Chichester district.

Members of the committee also asked if e-learning could be made available for drivers to which Mr Knowles-Ley confirmed that this would be considered.

Resolved

Proposed changes to the council's existing taxi and private hire policies/ conditions be approved as outlined above or further investigated.

23 Consideration of any late items as follows:

There were no late items to be considered.

24 Exclusion of the press and public

There was no requirement to exclude the press and public at this meeting.

The meeting ended at 11.15 am

CHAIRMAN

Date:

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Chichester District Council

GENERAL LICENSING COMMITTEE

12 February 2020

**Revised Fees and Charges 2020 for the
Animal Welfare Licensing Regime**

1. Contacts

Report Author

Timothy Horne – Principal Environmental Health Officer

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Cabinet Member

Penny Plant, Cabinet Member for Environment and Chichester Contract Services

Tel: 01243 575031 E-mail: pplant@chichester.gov.uk

2. Recommendation

- 2.1 That the General Licensing Committee approves the new fees and charges for 2020 as set out in the appendix to this report.**

3. Background

- 3.1 The Council is responsible for the grant of licences under 1) the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 which regulate; animal boarding, dog breeding, pet shops, performing animals and riding stables and 2) the Dangerous Wild Animals Act 1976 (DWA). The Council has currently issued 79 Animal Welfare Licences and three under DWA.
- 3.2 The new licensing regime, which aims to provide benefits for animal welfare came into force on 1 October 2018. Despite being accompanied by the introduction of a new fee system, the regulatory regime was generally well received by operators as there has been a general view that it has levelled the playing field between operators.
- 3.3 The legislation allows licensing authorities to charge a reasonable amount to recover the cost of considering the grant, renewal or variation of a licence.
- 3.4 The fee levels presented to Cabinet in November 2018 were based on an estimate of how long the licensing process would take under the new regulatory regime. It is now proposed to adjust fees to take account of actual time taken based on the experience gained from the first year of implementation.

4. Outcomes to be Achieved

- 4.1 That proposed fees are deemed to be fair and reasonable, based on the “Open for Business: LGA guidance” on locally set licence fees and which achieve recovery of

the Council's costs in administering the licensing system. The proposed fees have regard to the reasonable anticipated costs for:

- Consideration of an application, including any related inspection;
- Consideration of a licence holder's compliance with the Regulations and their licence conditions. This includes the cost of any further inspections related to compliance;
- The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator;
- The cost of the new requirement for officer training
- The costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.

5. Proposal

- 5.1 That a revised fee structure is introduced on 1 April 2020 (as set out in the Appendix) which ensures the animal licensing system achieves cost recovery, including for enforcement.
- 5.2 The fees and charges proposed are based on the statutory guidance for the new regime, issued by DEFRA.
- 5.3 In addition to the Council's fees, businesses may also be required to pay for an inspection and report from the Council's authorised vet. This cost will be in addition and is recharged to the licensee at the cost to the Council. Vet inspections are required for riding establishments, the first inspection of a dog breeder, dangerous wild animal inspections and for any premises where an officer has concerns about animal welfare and a vet's opinion is required.
- 5.4 Whilst the cost of administering this licensing regime has resulted in some significant increases in fees for operators, some licences now run for two or three years, instead of being renewed annually, so the cost to fully compliant businesses may be relatively modest over the life of the licence.

6. Alternatives Considered

- 6.1 That fees are retained at the current levels. This will not however comply with the legislation because the full cost of administering the regulations would not be recovered and this deficit will be borne by the Council.
- 6.2 There is a time lag for renewing licences that have been issued for two or three years so any delay in introducing revised regulatory costs may compound the Council's costs in the animal licensing regime and not incentivise higher risk rated licencees from making changes necessary to extend their licences.

7. Resource and Legal Implications

- 7.1 The animal licensing system is administered from the existing staff resources of the Environmental Protection team. There are no further legal implications.

8. Consultation

- 8.1 When the new animal welfare licensing regime was introduced on 1 October 2018 all the existing licence holders were written to, explaining the changes to animal licences and the new application process. The Council's website was updated to provide further guidance.
- 8.2 There has been no further consultation about these proposals. On approval of the proposed fees, current licencees will be advised at the time of licence renewal.

9. Community Impact and Corporate Risks

- 9.1 The changes in legislation and increased licence fees are a challenge for a regulated business although the thrust of the legislation is to improve animal welfare standards, which should be seen as a positive move. Any increase in licensing of premises that currently operate unlicensed, will assist in achieving an even playing field for all businesses.
- 9.2 Failure to approve suitable fee levels for licensable activities will result in the Council's costs in administering the regime not being recovered.

10. Other Implications

Are there any implications for the following?		
	Yes	No
Crime and Disorder The legislation will result in more businesses now coming under the licensing regime which have previously been unregulated e.g. hobby breeders, dog day care franchises. The legislation also requires LA to look for businesses that continue to operate animal activities without a licence.	x	
Climate Change and Biodiversity		X
Human Rights and Equality Impact		X
Safeguarding and Early Help		X
General Data Protection Regulations (GDPR)		X
Other		X

11. Appendices

- 11.1 Table of proposed Animal Licence Fees for 2020

12. Background Papers

- 12.1 None

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Appendix

Table of Proposed Animal Licence Fees (£) 1 April 2020

Licence Type	Numbers	Existing Licence Fee	Proposed Licence Fee
Pet shop		304.00	375.00
Home boarding of dogs	1-6	253.00	270.00
Franchise Animal Boarding	Home placements	new	425.00
Dog day care	1-6 (home)	new	270.00
	1-6	289.00	375.00
	7-25	304.00	395.00
	26-75	319.00	410.00
	76+	334.00	430.00
Boarding – dogs or cats	1-6	304.00	375.00
	7-25	319.00	390.00
	26-75	334.00	410.00
	76+	349.00	425.00
Hire of horses/donkeys	1	418.00	380.00
	2-10	445.00	460.00
	11-20	522.00	520.00
	21+	599.00	565.00
New dog breeding establishment	1-6	349.00	435.00
	7-12	364.00	500.00
	12+	394.00	560.00
Renewal dog breeding establishment	1-6	304.00	405.00
	7-12	319.00	465.00
	12+	349.00	525.00
Animals for exhibition [3 year licence]	1-6	304.00	375.00
	6+ or >3 species	334.00	405.00
More than one licensable activity at inspection		-100.00	-100.00
Appeals requests		140.00	175.00
Re-inspection for re-rating requests		140.00	165.00
Variation to licence		new	45.00
Processing Dangerous Wild Animal (DWA) application (Vets fees charged separately)		new	50.00
Add horse to Licence		25.00	25.00
Annual Horse Inspection Admin Fee		new	25.00
Vets fees (where required)	Recharge the licensee of the cost to Authority		

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Chichester District Council

**General Licensing Committee
12th February 2020**

The Council's proposed revised House to House Collection Policy

1. Contacts

Report Author:

David Knowles-Ley – Licensing Manager

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Helena Giudici – Licensing Assistant (Technical)

Telephone: 01243 534745 E-mail: hgiudici@chichester.gov.uk

Cabinet Member:

Councillor Norma Graves – Cabinet Member for Housing Communications, Licensing and Events

Telephone: 01798 342881 E-mail: ngraves@chichester.gov.uk

2. Executive Summary

To introduce amendments to and the adoption of the Council's revised House to House Collection Policy for the Chichester district.
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3. Recommendation

3.1 Members consider and approve the revised House to House Collections Policy for the Chichester District in appendix one.

4. Background

4.1 House to House Collections are governed by the House to House Collections Act 1939 and the House to House Collections Regulations 1947, as amended.

4.2 A House to House Collection licence (the 'licence') enables the holder to undertake door to door collections of money, unwanted property (e.g. clothing) and the sale of goods where any part of the proceeds may go to charity.

4.3 The council adopted its first ever House to House Collection Policy on the 27th February 2019. Since that time it has been used to determine all new applications for licences that have to date been received.

4.4 The policy sets out very clearly the council's approach to considering applications for licences and complements the basic controls contained in the statutory framework. This

being that an authority can refuse or revoke a licence for a number of reasons as outlined below:

- 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 incorrect information was provided on the application form;
- If the promoter or any other person involved in the collection has been convicted of certain criminal offences, i.e. burglary, blackmail or fraud;
- If the grant of the licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
- If the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the House to House Regulations or to prevent prescribed badges or certificates of authority being obtained other than by authorised persons.

4.5 Since adopting the current policy, a total of 27 applications have been received. Of these, seven have been granted and in all other cases applicants were contacted and offered advice as to how an application could be corrected e.g. reducing the number of proposed collection days, providing a Disclosure & Barring Service criminal conviction certificate etc. In two cases the applicant determined simply to withdraw their application.

4.6 There has been no formal legal challenge of the current policy and it is believed that it has achieved much of its original intention. This included providing a clear and fair framework for those wishing to undertake collections in the Chichester District, equity amongst charities/charitable organisations in terms of the number of collections undertaken in a calendar year, avoiding the district becoming saturated with collections and to ensure genuine collections are undertaken with an appropriate amount of the proceeds going to charity.

4.7 However, there have been a couple of comments received since the introduction of the policy and these relate specifically to the following paragraphs of the policy:

Paragraph 4.6 – Cllr Timothy Johnson has specifically requested that the limitation of 14 consecutive days for a collection be increased for the month of December only. Cllr Johnson has advised that an annual collection undertaken in his ward includes visits to 5,000 properties by volunteers and this cannot be managed in two weeks, especially during periods of poor weather. Increasing the number of collection days in December has the full support of Cllr Carol Purnell.

Paragraph 4.10 – Ms Stephanie Gaffney, Licensing Officer at Clothes Aid (Services) Ltd, has specifically questioned the existing requirement that at least 70% of the total proceeds of a collection must be given to the charity/charitable organisation. Ms Gaffney who submits applications in order to collect for the registered charity Cancer Support UK, states *that 'Cancer Support UK are entitled to royalty on door-to-door collections that Clothes Aid carries out, irrespective of whether or not Clothes Aid makes any profit or loss on the sale of the door to door collections. It is our contention that we have given 100% plus of the proceeds to Cancer Support UK. During the last 12 months, due to instability and uncertainty in Europe caused by Brexit, Clothes Aid has reported trading losses. Any royalty payable to any charity in this period is greater than 100% of proceeds.'* She also comments that *'I feel it is important to point out that the*

House to House Collection Act 1939, does not state a minimum percentage that has to be paid to the charity from the proceeds of the collection. The definition of proceeds is relevant here due to the fact that we carry out door-to-door collections, and the cost of door-to-door collections is intrinsically high.'

Ms Gaffney also makes reference to a Cabinet office decision in 2013 which relates specifically to the issue concerning the amount of proceeds that must be applied for charitable purposes. She states that *'Cardiff City Council had refused to issue licences for two collections, namely Support Pen-Y-Bont and Support Hollies School, based on the proportionality test, which showed that only 6.4% of the Support Pen-Y-Bont Ltd collection would be applied to the charitable cause and 8.9% in the case of Support Hollies School Limited. The collection companies appealed against these decisions to the Cabinet Office. The Cabinet Office determined in its appeal decisions that a contribution of 6.4% (Support Pen-Y-Bont) or 8.9% (Support Hollies School) of the gross proceeds of a charitable collection is not inadequate under the 1939 House to House Collections Act and that Cardiff City Council must therefore issue the licences.'*

The Cabinet Office concluded:

'As far as the test in section 2(3)(a) of the 1939 Act ("the proportionality test") is concerned, it is appreciated that, for a number of reasons, the costs of conducting house to house collections of second-hand clothing tend to be higher than, for example, collections of cash. In this case Support Pen-y-Bont Ltd is a commercial company collecting on behalf of Y Bont, but charities that undertake these types of collection in-house are likely to face similar costs of distributing leaflets/collection bags, collecting goods that have been left out for them, and sorting/grading donated items. 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. Taking these costs into account, the Minister does not consider the proportion of the proceeds that will go to the charity to be inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).'

5. Outcomes to be Achieved

- 5.1 To ensure that the council's House to House Collection policy continues to provide a clear and fair framework for those wishing to undertake collections within the Chichester district.

6. Proposal

- 6.1 The comments summarised at paragraph 4.7 above have been carefully considered by officers. It is believed that encompassing a slight increase in the number of collection days for December will not have a detrimental effect on the original overall purposes of the policy. The intention is therefore to increase the amount to 21 consecutive days although in December only.
- 6.2 With regard to the existing requirement that at least 70% of the total proceeds of a collection must be given to the charity/charitable organisation, it is felt unnecessary to amend the expected required percentage. This is considered to be an appropriate aspirational amount; however it is also acknowledged that in some exceptional cases it may not be entirely achievable. This may for example be due to the increased costs

incurred in undertaking a particular type of collection. The proposal is therefore to amend the existing policy in order that there is a degree of discretion that can be afforded when an applicant provides satisfactory evidence of increased collection costs rendering the 70% requirement unachievable. In cases where satisfactory evidence is provided, the Licensing Manager in conjunction with a Divisional Manager may determine to grant a licence.

6.3 A revised House to House Collection Policy has been prepared and is provided at Appendix 1. This includes amendments to the existing policy to reflect the proposed changes referred to at 6.1 and 6.2 above.

7. Alternatives Considered

7.1 Continue to process applications in accordance with the existing House to House Collections Policy although this may be the subject of legal challenge.

8. Resource and Legal Implications

8.1 Applications are not subject to any fee. Therefore there is no income generated nor lost from the implementation of this policy.

8.2 No changes to the additional staffing resources would be required as a result of the proposed minor changes to the policy.

8.3 There are no legal implications identified other than those outlined above.

9. Consultation

9.1 No direct consultation has taken place; however comments have been received from interested parties and stakeholders regarding the existing policy which required our consideration.

10. Community Impact and Corporate Risks

10.1 The implementation of a revised policy is not expected to have any negative impact on the community and is likely to reduce the corporate risk by way of legal challenge.

11. Other Implications

Are there any implications for the following?		
	Yes	No
Crime and Disorder:		X
Climate Change and Biodiversity		X
Human Rights and Equality Impact		X
Safeguarding and Early Help		X
General Data Protection Regulations (GDPR)		X
Health and Wellbeing		X
Other (please specify)		X

12. Appendices

12.1 Appendix 1 – Draft Revised House to House Collection Policy

13. Background Papers

Fundraising Regulator Code of Fundraising Practice:
www.fundraisingregulator.org.uk/code

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House to House Collections Policy

1. Introduction

- 1.1 House to House collections are governed by the House to House Collections Act 1939 and the House to House Collections Regulations 1947, as amended.
- 1.2 As a general rule, house to house collections are for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by the authority.
- 1.3 The definition of 'collection' extends beyond requests for money, to include the sale of magazines, requests for unwanted clothing and household items, visits to persuade persons to buy goods, etc. where any part of the proceeds may go to charity.
- 1.4 The only exception to the general rule is for charities that have been granted an Exemption Certificate by the Home Office under the provisions of the House to House Collections Act 1939. This certificate allows a charity to collect in the district without applying for a licence. The charity must inform the authority of the dates and areas of any planned collections.

2. Aims

- 2.1 The aims of the licensing authority are to:
 - Safeguard the interests of both public donors and beneficiaries;
 - Facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met; and
 - Prevent unlicensed collections from taking place.

3. Objectives

- 3.1 In order to achieve its aims, the licensing authority will:
 - Ensure impartiality and fairness in determining applications;
 - Accommodate all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after;
 - Provide equality of opportunity for proposed collectors;
 - Avoid causing undue nuisance to the public;
 - Set fair maximum limits; and
 - Achieve a fair balance between local and national causes.

- 3.2 The licensing authority recommends all parties adhere to the Fundraising Regulator Code of Fundraising Practice developed by the Institute of Fundraising and Public Fundraising Association. A copy of the code of practice can be found at www.fundraisingregulator.org.uk/code

4. General Principles

- 4.1 Charities must either be registered with the Charity Commission or, in exceptional circumstances, be accepted as a charitable organisation based in the Chichester district.
- 4.2 Only one collection shall be permitted in an area at any one time.
- 4.3 Applicants must specify the exact area that they propose to collect in and are not permitted to apply for the entire or significant area of the district. For example, 'Selsey, East Wittering, West Wittering and Bracklesham Bay' would be acceptable; however, 'All parishes excluding Oving' would not. The licensing authority will naturally endeavour to facilitate collections where there is an overlap of an area within an application (i.e. provide alternative dates or adjust the area proposed to collect in).
- 4.4 Applications will be dealt with on a first come first served basis.
- 4.5 No more than two collections for a particular charity/charitable organisation may be undertaken throughout the district or part thereof during one calendar year.
- 4.6 To give sufficient time to allow as many organisations as possible to undertake a collection, ~~the licensing authority will not grant licences for periods in excess of 14 consecutive days.~~ an application will be refused for periods in excess of the following:
- January to November: 14 consecutive days; and
December: 21 consecutive days.
- 4.7 There must be a minimum period of 28 days between collections made for the same charity/charitable organisation.
- 4.8 An application will be refused where there is a failure to provide the mandatory additional documentation contained within paragraph 5.3.
- 4.9 Applications will only be accepted for collections to be held in the current or next calendar year.
- 4.10 ~~Whilst each application will be decided on its individual merit~~ At least 70% of the total proceeds of the collection must be given to the charity/charitable organisation. Therefore no more than 30% of the total proceeds can be deducted by the collector for expenses/costs relating to the collection. However, in cases where satisfactory evidence is provided that it is not reasonable for the above minimum proceeds to be achieved, the Licensing Manager in conjunction with a Divisional Manager may determine to grant a licence.

4.11 The promoter must forward a financial return form to the licensing authority within one calendar month of the end date of the collection showing details of the monies collected. No licence will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

5. Applications

5.1 In order for the necessary checks to be carried out and to leave time for prescribed badges and certificates to be ordered and received from Her Majesty's Stationery Office (HMSO), it is strongly recommended that applications are submitted a minimum of three months before the proposed date of collection.

5.2 Any application received after the first day of the month preceding the month during which the proposed collection would commence will ordinarily be refused. Where we are satisfied that there are special reasons for the failure to comply with this requirement, we may determine to grant the licence.

5.3 The following information must be submitted with an application:

- Any relevant literature about the charity/charitable organisation;
- Copy of the published accounts for the last two years;
- If you are applying on behalf of a charity/charitable organisation, a letter from the charity/charitable organisation authorising you to undertake a collection on their behalf (commonly referred to as a 'letter of authorisation');
- Any agreement or contract details with the charity/charitable organisation benefitting from the collection;
- A criminal conviction certificate 'Basic Disclosure Check' issued by the Disclosure and Barring Service relating to either the applicant (i.e. promoter) or where the applicant is a company, the Director responsible for overseeing the collection. The certificate must not have been issued earlier than one calendar year prior to the application.

5.4 Applications **for collections in January to November requesting longer than in excess of 14 consecutive days or in December in excess of 21 consecutive days** will be refused.

5.5 Applications will be carefully considered on receipt. In the event that further information is requested from the applicant to assist with its determination, this must be provided in a timely fashion. Failure to do so will result in a delay to consideration or ultimately refusal of the application.

5.6 The licensing authority can refuse or revoke a licence for a number of reasons:

- If a 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/charitable organisation;
- If incorrect information was provided on the application form;
- If the promoter or any other person involved in the collection has been convicted of certain criminal offences, i.e. burglary, blackmail or fraud;

- If the grant of the licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
- If the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the House to House Collection Regulations 1947 or to prevent prescribed badges or certificates of authority being obtained other than by authorised persons.

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

6. Conduct during collections

6.1 The House to House Collection Regulations 1947 (Appendix A) as amended requires that *'no collector shall importune any person to the annoyance of such person, or remain in, or at the doors of, any house if requested to leave by any occupant thereof.'*

6.2 Collectors must not call at properties where residents have displayed a no cold calling sticker or similar indicating that they do not want to be subject to unsolicited visits.

6.3 Consideration will be given to revoking a licence and/or refusing any future application(s) where the authority:

- Receives negative feedback in respect of collections taking place at unsociable hours or with regard to undue pressure/misrepresentation by agents; and/or
- Receives complaints about calls to properties displaying a no cold calling sticker.