

Chichester District Council

General Licensing Committee 12th February 2020

The Council's proposed revised House to House Collection Policy

1. Contacts

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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