



SOUTH DERBYSHIRE DISTRICT COUNCIL

Charitable Collections Policy

Version 1: 19th May 2016

1. INTRODUCTION

HOUSE TO HOUSE COLLECTIONS

- 1.1 House to house collections are governed by the House to House Collections Act 1939 ('the 1939 Act') and the House to House Collections Regulations 1947, as amended.
- 1.2 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 rule of law, are required to be licensed by the Licensing Authority which is South Derbyshire District Council.
- 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 organisations that have been granted an Exemption Certificate by the Home Office under the provisions of the 1939 Act. This Certificate allows an organisation to collect in the District without applying for a licence from the Licensing Authority. The organisation will not be exempted from the regulations or provisions of the 1939 Act and the organisation must inform the Licensing Authority of the dates and areas of any planned collections.

STREET COLLECTIONS

- 1.5 The Licensing Authority is empowered under Section 5 of the Police, Factories, Etc (Miscellaneous Provisions) Act 1916 ('the 1916 Act') to license collections made in 'any street or public place' for 'charitable or other purposes'.
- 1.6 'Street' is defined as including any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.
- 1.7 The definition of a 'public place' 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 collector straying outside and/or into the car park would require a licence.
- 1.8 The Charitable Collections (Transitional Provisions) Order 1974 sets out model street collections regulations which have been adopted by the Licensing Authority.

2. AIMS

- 2.1 The aims of the Licensing Authority in respect of the licensing of charitable collections 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 in respect of licensing of charitable collections, the Licensing Authority has identified the major issues and sought to tackle them through this Policy with the intention of:
- Ensuring impartiality and fairness in determining applications;
 - Accommodating all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after;
 - Providing equality of opportunity for would-be collectors;
 - Avoiding undue nuisance to the public;
 - Setting fair maximum limits for one applicant;
 - Achieving a fair balance between local and national causes;
 - Forming links and improving communications with other organisations with a direct or indirect involvement in the licensing and administration of charitable collections such as the Police, Trading Standards, the Charity Commission, parish councils and local charitable institutions, etc.
- 3.2 This Licensing Authority recommends that all organisations adhere to the Institute of Fundraising's Code of Fundraising Practice. A copy of this code of practice can be found at www.institute-of-fundraising.org.uk

4. HOUSE TO HOUSE COLLECTIONS

GENERAL PRINCIPLES

- 4.1 Charities must be registered with the Charity Commission or be a charitable organisation based within the District of South Derbyshire.
- 4.2 Wherever possible, only one organisation shall be permitted to collect per day. More than one organisation will be permitted if the collection is taking place in different areas of the District. Applications will be dealt with on a first come first served basis.
- 4.3 In general, organisations shall not be permitted to hold more than two collections throughout the District or part thereof during one calendar year. This shall be at the discretion of the Senior Licensing Officer.
- 4.4 Where further requests are received from charities that hold a Home Office exemption to collect on dates which have already been allocated, a formal request will be made for them to consider an alternative date.
- 4.5 Applications will only be accepted for charitable collections to be held in the current or next calendar year.
- 4.6 The Licensing Authority appreciates that expenses/costs will be incurred by organisations when carrying out clothing collections and that, through the process of collecting and sorting the clothes, value is added. However, expenses/costs deducted by the organisation must still be reasonable.

- 4.7 With regards to clothing collections, it is very difficult to determine applications based on the percentage of proceeds that are given to the charities as every organisation works differently and percentages might not reflect the true amount given to charities. Trustees of a charity have the legal duty to ensure that they act in the best interests of the charity including any contract entered into with a commercial operator. On this basis, this Licensing Authority will ask all charities to provide a declaration stating that they have performed due diligence and are happy with the remuneration going to charitable objectives. This will place the onus on the charities streamlining the application process for all parties involved.
- 4.8 The applicant must forward a financial return form to the Licensing Authority within one month of the date of the collection showing details of the monies collected. No permit will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

APPLICATION PROCEDURE

- 4.9 The Licensing Authority operates a diary system to log in collections therefore the applicant is encouraged to contact the Licensing Authority before submitting an application in order to check the available dates for any collection.
- 4.10 Applications are to be made in writing on the form provided together with the information requested. Where possible, the use of electronic forms will be encouraged.
- 4.11 Applications must be received at least one month before the date of the proposed collection. In order for the necessary checks to be carried out and to leave time for the necessary prescribed badges and certificates to be ordered and received from Her Majesty's Stationary Office (HMSO), it is advised that applications are submitted a minimum of 3 months before the proposed date of collection. Any applications received less than the 28 days before the proposed first date of collection will be declined. This requirement may be waived in exceptional circumstances at the discretion of the Senior Licensing Officer.
- 4.12 If an application is to be made by a commercial organisation collecting on behalf of a charity, the following information must be submitted with the application:
- Literature about the charity benefitting from the collection;
 - Copy of published accounts for the last two years;
 - Copy of statement of accounts from the last three or four collections carried out (including collections held in other Licensing Authority areas);
 - Declaration from the charity that they are happy with the remuneration from the collection;
 - Letter from the charity authorising the promoter to undertake a collection on their behalf, if the promoter is not an official of the charity; and
 - An agreement or contract details with any registered charity or individual benefiting from this collection.

This information will not be required if a charity is collecting on their own behalf or if the application is from a voluntary organisation.

- 4.13 Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant to assist in determining the application. The failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.
- 4.14 No collection should take place until the organisations is in receipt of the permit. To collect, before the determination of the application, would be an offence under the 1939 Act.
- 4.15 Applications will be considered by the Licensing Authority on their respective merits and the Licensing Authority will either:
- (a) Issue a permit specifying the requested date and location; or
 - (b) Refuse to issue a permit on the grounds detailed below.
- 4.16 The Licensing Authority can refuse or revoke a permit for various reasons including:
- To limit the number of collections in line with this Policy at the discretion of the Senior Licensing Officer;
 - If too high a proportion of the proceeds is likely 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 no return was received in relation to a previous collection;
 - If the promoter or any other person involved in the collection has breached the legislation or regulations in relation to previous collections;
 - If the promoter or any other person involved in the collection has been convicted of certain criminal offences i.e. burglary, blackmail or fraud or any offence committed under the Act.

This list is not exhaustive.

- 4.18 There is a right of appeal to the Secretary of State against the refusal or revocation of a permit within 14 days from the date on which the notice is given of the refusal or revocation.
- 4.19 During the collection, the promoter must ensure that collectors are 'fit and proper' persons and that they comply with the regulations. A copy of the house to house regulations is attached to this Policy at Appendix 1.
- 4.20 The promoter must forward to the Licensing Authority a financial return form showing details of the monies collected within one month of the collection.

5. STREET COLLECTIONS

GENERAL PRINCIPLES

- 5.1 Charities must be registered with the Charity Commission or be a charitable organisation based within the District of South Derbyshire.
- 5.2 Wherever possible, only one organisation shall be permitted to collect per day. More than one organisation will be permitted if the collection is taking place in different areas of the District. Applications will be dealt with on a first come first served basis.
- 5.3 Organisations shall not be permitted more than one permit per year to carry out charitable street collections within the same location on a Friday or Saturday.
- 5.4 In general, organisations shall not be permitted to hold more than two collections throughout the District or part thereof during one calendar year. This shall be at the discretion of the Senior Licensing Officer.
- 5.5 No payment must be made to any collector, or to any other 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 Licensing Authority. In general, payments to collectors are discouraged as it is contrary to the objective of maximising income to charitable institutions. Reimbursement of reasonable expenses is generally accepted provided that it is within an acceptable overall proportion of the total collected. All collections will be considered on an individual basis but all payments will be subject to agreement with the Licensing Authority in advance.
- 5.6 No animals are permitted to accompany collectors during the collection without prior written approval of the Licensing Authority.

APPLICATION PROCEDURE

- 5.7 The Licensing Authority operates a diary system to log in collections therefore the applicant is encouraged to contact the Licensing Authority before submitting an application in order to check the available dates for any collection.
- 5.8 Applications are to be made in writing on the form provided together with the information requested. Where possible, the use of electronic forms will be encouraged.
- 5.9 Applications shall be received at least one month before the proposed date of the collection. This requirement may be waived if there are special reasons for doing so as decided by the Senior Licensing Officer.
- 5.10 The application will be considered on receipt and, where appropriate, additional information may be required from the applicant to assist in determining the application. The failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.
- 5.11 No collection should take place until the organisations is in receipt of the permit. To collect, before the determination of the application, would be an offence under the Act.

- 5.12 Applications will be considered by the Licensing Authority on their respective merits and the Licensing Authority will either:
- (a) Issue a permit specifying the requested date and location; or
 - (b) Refuse to issue a permit.
- 5.13 There are no restrictions as to the grounds for refusing an application for a street collection permit however, in determining an application; the Licensing Authority will consider the past conduct of the applicant in particular with regards to the applicant's compliance with the legislation and regulations. There is currently no right of appeal against a decision of the Licensing Authority to refuse or revoke a permit for a collection.
- 5.14 There shall be no more than 5 collectors at any one time during the collection. The number of collectors can be increased with the written approval of the Licensing Authority.
- 5.15 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 any appropriate legislation. A copy of the street collections regulations are attached to this Policy as Appendix 2.
- 5.16 The promoter must forward to the Licensing Authority a financial return form showing details of the monies collected within one month of the date of the collection. No permit will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

6. UNLICENSED COLLECTIONS

- 6.1 The Licensing Authority takes breaches of both Acts very seriously and will take the necessary legal action against any organisation that operates within the District without the correct permit.
- 6.2 Information will be posted on the Council's website for members of the public in relation to unlicensed or fraudulent collections. This information will include how to report any such activity to the Licensing Authority for enforcement action to be taken. An up to date list of current collections will be available on the Council's website for the benefit of the public and any potential applicants.

7. DIRECT DEBITS

- 7.1 In relation to street collections, the collection of direct debits for charitable purposes does not need to be licensed by way of a street collection permit.
- 7.2 With regards to house to house collections, many organisations do not believe that direct debits fall under the remit of the 1939 Act however the 1939 Act defines collection as 'an appeal to the public, made by means of visits from houses to house, to give, whether for consideration or not, money or other property.'
- 7.3 It is the view of this Licensing Authority that direct debits can be classed as the 'giving of money' and therefore direct debit collections would fall under the

remit of the 1939 Act. This Licensing Authority requires that all direct debit collections are licensed by way of a house to house collection permit.

8. CONTACT DETAILS

Anybody wishing to contact the Licensing Authority with regard to this Policy can do so as follows:

In writing to South Derbyshire District Council
 Licensing Department
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

By email to licensing@south-derbys.gov.uk

By telephone 01283 595716

DOCUMENT HISTORY

Issue 1 – May 2016



South
Derbyshire
District Council

HOUSE TO HOUSE COLLECTION ACT 1939
AND
HOUSE TO HOUSE COLLECTION REGULATIONS 1947

1. Every promoter of a collection shall exercise all due diligence
 - (a) to secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
 - (b) to secure compliance on the part of persons so authorised with the provisions of these Regulations.
2. No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person:-
 - (a) a prescribed Certificate of Authority duly completed and signed by or on behalf of the chief promoter of the collection;
 - (b) a prescribed badge which must state a general indication of the purpose of the collection; and
 - (c) if money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the conservative number of the receipt.
3. Every promoter of a collection shall exercise all due diligence to secure:-
 - (a) that no prescribed certificate of authority, prescribed badge collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
 - (b) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
4. In the case of a collection in respect of which a licence has been granted:-
 - (a) every prescribed Certificate of Authority shall be given on a form obtained from H.M. Stationery Office, and every prescribed Badge shall be so obtained; and

- (b) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the local authority for the area in respect of which the licence was granted.
- 5. No person **under the age of 16 years**, shall act or be authorised to act as a collector of money.
- 6. 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.
- 7. The promoter of a collection must furnish an account of the collection in the form prescribed to the Licensing Authority within one month of the expiry of the licence.

DEFINITIONS

- 8. **"Charitable Purpose"** means any charitable, benevolent, or philanthropic purpose.

"Collection" means 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" means 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 collection or not**, in response to the appeal.

"Promoter" means a person who causes others to act as collectors for the purpose of the collection.

ENVELOPE COLLECTIONS

Envelope collections may not be carried out unless the promoter has the express permission of the Secretary of State.

FOR FURTHER INFORMATION

- 9. For further information, reference should be made to the Act and Regulations which are obtainable from H.M. Stationery Office, P.O. Box 569, London, SE1 9NH, or through any bookseller.
- 10. Enquiries in connection with these matters may also be addressed to:

**South Derbyshire District Council
Civic Way
Swadlincote
Derbyshire, DE11 0AH**



POLICE, FACTORIES, & C. (MISCELLANEOUS PROVISIONS) ACT 1916

STREET COLLECTION REGULATIONS

1. In these Regulations, unless the context otherwise requires:-
 - “collection” means a collection of money or 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;
 - “the licensing authority” means South Derbyshire District Council;
 - “permit” means a permit for a collection;
 - “contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 - “collecting box” means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the South Derbyshire District unless a promoter shall have obtained from the licensing authority a permit.
3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make a collection:
 - Provided that the licensing authority may reduce the period of one month if satisfied that there are special reasons for doing so.
4. No collection shall be made except upon the day and between the hours stated on the permit.
5. The licensing authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (i) No person may assist or take part in any collection without the written authority of a promoter.

(ii) Any person authorised under paragraph (i) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing authority or any constable.

7. No collection shall be made in any part of the carriageway of any street which has a footway:

Provided that the licensing authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.

8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting:-

- (i) a collector shall remain stationery; and
- (ii) a collector or two collectors together shall not be nearer to another collector than 25 metres:

Provided that the licensing authority 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.
 - (i) Every collector shall carry a collecting box.
 - (ii) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
 - (iii) All money received by a collector from contributors shall immediately be placed in a collecting box.
 - (iv) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
14.
 - (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.

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 the Licensing Authority.
16. (1) Within one month after the date of any collection the person to whom a permit has been granted shall submit to the licensing authority:
- (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 collection, and certified by that person and a qualified accountant;
- (b) a list of the collectors;
- (c) a list of the amounts contained in each collecting box;
- and shall, if required by the licensing authority, 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 a qualified accountant has given his certificate under paragraph (1)(a) above, publish in such newspaper or newspapers as the licensing authority 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.
- (3) The licensing authority may, if satisfied there are special reasons for doing so extend the period of one month referred to in paragraph (1) above.
- (4) For the purposes of this Regulation "a qualified accountant" means a member of one or more of the following bodies:-
- the Institute of Chartered Accountants in England and Wales;
the Institute of Chartered Accountants in Scotland;
the Association of Certified Accountants;
the Institute of Chartered Accountants in Ireland.
17. These regulations shall not apply:-
- (a) in respect of a collection taken at a meeting in the open air; or
- (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
18. Further information may be obtained from:-

- (i) The Charity Commission Direct, PO Box 1227, Liverpool, L69 3UG –
01823 345096
- (ii) The Stationery Office, TSO Publications, 85 Buckingham Gate,
London, SW13 6PD – 0333 2025070