

## Summary Sheet

### Council Report

Licensing Board 23<sup>th</sup> April 2018

#### Title

Rotherham MBC House to House Collections Policy

#### Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

#### Director Approving Submission of the Report

Tom Smith – Assistant Director of Community Safety and Street Scene

#### Report author(s):

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#### Ward(s) Affected

All wards

#### Executive Summary

Licensing of house to house collections, whilst governed by national legislation, provides for local discretion. It is considered that having a clear and transparent policy will assist applicants' understanding of the process and facilitate consistent decision making by the Council.

All applications for House to House Collection Permits are considered by the Council's Licensing Board. This report seeks the views of the Board in readiness for a further report to the Cabinet Member for Waste, Roads and Community Safety seeking approval to consult on the draft policy prior to implementation.

## **Recommendations**

- That the Licensing Board consider the draft House to House Collections Policy and provide comment in relation to the document.

## **List of Appendices Included**

Appendix 1 - Rotherham MBC Draft House to House Collections Policy (April 2018)

## **Background Papers**

- House to House Collections Act 1939
- House to House Collections Regulations 1947

## **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

This policy will require approval by the Cabinet Member for Waste, Roads and Community Safety.

## **Council Approval Required**

No.

## **Exempt from the Press and Public**

Not exempt.

# **Rotherham MBC House to House Collections Policy**

## **1. Recommendations**

- 1.1 That the Licensing Board consider the draft House to House Collections Policy and provide comment in relation to the document.

## **2. Background**

- 2.1 The House to House Collections Act 1939 requires all house to house collections for a charitable purpose to be licensed by local authorities. The legislation is not adoptive and applies automatically in each local authority area.
- 2.2 The Act defines a charitable purpose as “any charitable, benevolent or philanthropic purpose, whether or not the purpose is charitable within the meaning of any rule of law”.
- 2.3 A collection is defined within the Act as “an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property”.
- 2.4 In order to fall within the remit of this legislation, therefore, the collection must be one that is made wholly or partly for charitable purposes whether it be the collection of money, or any other items that may subsequently be sold for money, where either the money or the items are given for charitable purposes. This would encompass collections where the promoter is collecting items for subsequent sale, such as clothing, where the promoter guarantees to remit a set percentage, or minimum amount, to charitable purposes.
- 2.5 Additionally the collection must be made by going from door to door, not from standing in the street. The collection does not necessarily have to be made by knocking on the door and making personal contact, it can equally be made by leaving envelopes or collection bags for collection on a specified date.
- 2.6 Significantly, the Act also defines a house as “including a place of business”.
- 2.7 Given that the collection for charitable purposes also includes all business premises, it would also include collectors going from shop to shop, rose sellers travelling from pub to pub, and similar collections. On reflection, whilst the legislation refers to house to house collections, it would be better referred to as door to door collections.
- 2.8 The purpose of the legislation is to ensure that collectors are properly authorised, that the collections do not cause a nuisance to the public, that donations are receipted and stored in a secure way, and that the total proceeds are properly accounted for and forwarded to the appropriate charitable organisation.

- 2.9 The Secretary of State may issue an Exemption Certificate to the promoter of a collection where collections are to take place throughout the whole, or a substantial part, of England provided he/she is satisfied that the collection pursues a charitable purpose. The holder of an Exemption Certificate does not have to obtain a licence from the local authority to undertake collections, although historically promoters with Exemption Certificates notify the local authority of their planned collection dates out of courtesy.
- 2.10 Some larger charities have secured Exemption Certificates; however, most of the smaller charities operating locally do not have Exemption Certificates and, therefore, need to apply to the Council for a licence.
- 2.11 Unless persons who wish to undertake charitable collections hold an Exemption Certificate issued by the Secretary of State, it is an offence for any person to promote or make collections from door to door for charitable purposes without first obtaining a licence from the local authority.

### **3. Key Issues**

- 3.1 The draft Rotherham MBC House to House Collections Policy is attached to this report as Appendix 1.
- 3.2 It is considered that having a clear and transparent policy will assist applicants' understanding of the process and facilitate consistent decision making by the Council.
- 3.3 All applications for House to House Collection Permits are considered by the Council's Licensing Board and as such the views of the Licensing Board in relation to the policy would be extremely useful. It is expected that members of the Licensing Board would be able to draw upon their experiences in the consideration of application for permits, and provide feedback on whether they feel that the draft policy addresses and concerns that exist.
- 3.4 It is important to note however that many local and national charitable organisations rely upon the funding that is allocated to them as a result of house to house collections, and therefore the policy must strike the correct balance between ensuring that permits are only granted in appropriate circumstances and providing proportionate application criteria that do not introduce unnecessary barriers to for legitimate and well-meaning individuals and / or organisations.
- 3.5 Following consideration of this policy by the Licensing Board, any comments / suggestions will be incorporated into the policy and a report will be prepared for consideration by the Cabinet Member for Waste, Roads and Community Safety. There will then be a period of public consultation prior to the introduction of the policy (subject to the agreement of the Council's Executive).

#### **4. Options considered and recommended proposal**

- 4.1 The report is for consultation only, and therefore no options / proposals are recommended.

#### **5. Consultation**

- 5.1 Following consideration (and amendment) of the draft policy by the Licensing Board, further consultation will take place with the Cabinet Member for Waste, Roads and Community Safety.
- 5.2 The draft policy will then be further amended (if appropriate) and subjected to a period of public consultation.
- 5.3 Where possible, the licensing service will identify organisations / individuals that are likely to be affected by the revised policy and their views sought.

#### **6. Timetable and Accountability for Implementing this Decision**

- 6.1 It is anticipated that the draft policy will be submitted to the Cabinet Member for Waste, Roads and Community Safety in July 2018.
- 6.2 Public consultation will commence following this meeting, with a view to seeking final approval of the policy towards the end of 2018.

#### **7. Financial and Procurement Implications**

- 7.1 There are no financial or procurement implications directly associated with this report.

#### **8. Legal Implications**

- 1.1 The House to House Collections Act 1939 lays down requirement in relation to House to House Collections.
- 1.2 Section 4 of the Act provides for the Secretary of State to prescribe regulations regulating the manner in which collections may be carried out, including the conduct of promoters and collectors. There is no opportunity for local authorities to prescribe additional regulations or attach licence conditions.
- 1.3 The Secretary of State published the House to House Collections Regulations 1947, subsequently amended by the House to House Collections Regulations 1963, which took effect from 29<sup>th</sup> December 1947. These regulations, included as Appendix A to the Policy, apply to all licences issued by the Council under the House to House Collection Act 1939.

- 1.4 There is no right of appeal through the courts against a decision to refuse or revoke an application, however, there is a right of appeal to the Secretary of State whose decision is final. Additionally, any decision must be reasonable as any decision could also be subject to a complaint to the Local Government Ombudsman or through a judicial review.
- 1.5 By virtue of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the adoption of a local policy in respect of House to House collection regulation is a matter for the Council's Executive.
- 1.6 However, as the determination of applications for House to House Collection permits is the responsibility of the Council's Licensing Board, the views of the Board should be considered integral to the development of any policy regarding House to House applications.

## **2. Human Resources Implication**

- 2.1 There are no additional human resource implications introduced by this report.

## **3. Implications for Children and Young People and Vulnerable Adults**

- 3.1 The draft policy reinforces the statutory prohibition on individuals under the age of 16 being involved in collection activity.
- 3.2 There are no additional implications for Children, Young People or Vulnerable Adults.

## **4. Equalities and Human Rights Implications**

- 4.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 4.2 The proposed Policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion or any other protected characteristic. Officers work with all applicants and consent holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met, for example, guidance notes could be provided in other languages upon request.

## **5. Implications for Partners and Other Directorates**

5.1 It is recognised that the effective enforcement and implementation of the policy will require partnership working with partners such as South Yorkshire Police and HM Revenue and Customs.

5.2 However, it is not considered that this policy will have any direct implications for any of the Council's partners or other directorates.

## **6. Risks and Mitigation**

6.1 Given that the Policy is a fundamental element of consistent decision making, a policy that was not fit for purpose would increase the risk of judicial challenge.

6.2 It is therefore essential that the policy is developed taking into account the views of decision makers, enforcement officers, the general public and those that may be affected by the introduction of this policy.

## **7. Accountable Officer(s)**

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