
Summary Sheet

Name of Committee and Date of Committee Meeting

Cabinet – 22 October 2018

Report Title

House to House Collections Policy

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

Yes

Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration and Environment

Report author(s):

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Ward(s) Affected

All

Executive Summary

House to house collections on behalf of charities, with some exemptions, are required to be permitted by Councils. Whilst governed by national legislation, there is provision for local discretion. House to house collections are defined 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'. They include, therefore, collections of money, or any other items that may be sold for money, where the proceeds are given to any charitable, benevolent or philanthropic purpose (for example, charity clothing collection bags).

For the purpose of the House to House Collection Act 1939, the term 'house' also includes places of business. This provision, therefore, also covers collections made within places such as shops, offices and public houses where the collectors go from premises to premises collecting money, or other property, and the proceeds of such collections are given to charity (for example, rose sellers in public houses and restaurants).

Applications are received by the Council from a number of organisations each year and the issuing of permits to authorise collections is considered by the Council's Licensing Board. The Council is not obliged to formulate and adopt a Policy in relation to the application process for House to House Collection Permits, and historically has not had a Policy in place.

However, it is now considered that having a clear and transparent policy will assist applicants' understanding of the process and facilitate more consistent decision making by the Council.

Recommendations

1. That the draft policy be considered and approval be given to take the Policy to consultation with relevant individuals and organisations.
2. That, following consultation, the Policy be brought back to Cabinet in the spring of 2019 to consider adoption.

List of Appendices Included

Appendix 1 Rotherham Metropolitan Borough Council Draft House to House Collections Policy (July 2018)

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

The draft policy was reviewed by the Licensing Board in April 2018. Comments made by Members of the Board have been incorporated into the draft policy.

Council Approval Required

No.

Exempt from the Press and Public

No

Rotherham Metropolitan Borough Council House to House Collections Policy

1. Recommendations

- 1.1 That the draft policy is considered and approval given to take the Policy to consultation with relevant individuals and organisations.
- 1.2 That, following consultation, the Policy is brought back to Cabinet in the spring of 2019 to consider adoption.

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 through the application for, and issue of, a Permit from the appropriate Council. The legislation applies automatically in each Local Authority area, and therefore it does not require specific adoption by the Council.
- 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 To fall within the remit of this legislation 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. This would include collections where the promoter is collecting items for subsequent sale, such as clothing, and where the promoter guarantees to donate a percentage or minimum amount, to charity.
- 2.5 Additionally the collection must be made by going from door to door, not from standing in the street. This 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 (for example, the use of collection bags for donations of clothing that will be collected on a specified date).
- 2.6 Significantly, the Act also defines a house as including places of business. Given this, the definition would also include collectors going from shop to shop, for example rose sellers travelling from public house to public house.
- 2.7 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.

- 2.8 The Secretary of State may issue an Exemption Certificate, which negates the need to apply for a licence, to the promoter of a collection where collections are to take place throughout the whole, or a substantial part of England, provided that the collection pursues a charitable purpose.
- 2.9 Some larger charities have secured Exemption Certificates; however, most of the smaller charities operating locally do not have Exemption Certificates and are required to apply to the Council for a licence.
- 2.10 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 Permit from the Local Authority.

3. Key Issues

- 3.1 A clearer and more transparent policy will assist applicants to understand the process of applying for a licence and the information required, together with facilitating more consistent decision making by the Council.
- 3.2 Importantly, residents will be reassured that the Council has put in place robust measures to ensure that collections are regulated and only those with an appropriate return to charities will be authorised. It is not unusual for house to house collections to utilise charity badging for collections, whilst providing only a small return to charities, with the majority of funds being retained by the collectors and promoters. Residents should rightly expect that if they make donations to a charity that that charity is the main recipient of that support.
- 3.3 All applications for House to House Collection Permits are considered by the Council's Licensing Board and consequently the views of Board members in relation to the policy were obtained at the meeting of the Licensing Board in April 2018. These recommendations have been incorporated into the draft policy.
- 3.4 It is important to note that many local and national charitable organisations rely upon the funding gained as a result of house to house collections. The policy must therefore strike the correct balance between ensuring that permits are only granted in appropriate circumstances, and proportionate application criteria, that do not introduce unnecessary barriers for legitimate and well-meaning individuals and organisations.
- 3.5 The Council's draft House to House Collections Policy is attached to this report at Appendix 1.

4. Options considered and recommended proposal

Option 1

- 4.1 The Council is not obliged to formulate and adopt a Policy in relation to the application process for House to House Collection Permits. Consequently the

Council might consider that it is appropriate to permit applications simply within the context of legislation without setting contextual criteria.

4.2 Although this is a relatively straightforward approach (and reflects the Council's current position), this option is not being recommended due to the following reasons:

- No guidance is provided to applicants and / or the Licensing Board in relation to the amount of the proceeds that should be donated to charity.
- The matters that will be considered in relation to an application are not made sufficiently clear, this can sometimes lead to a delay in the processing of the application whilst additional information is provided.
- The absence of a clear set of guidelines can lead to inconsistent decision making.

Option 2

4.3 The adoption of a Policy would provide a more formal framework for consideration and add value to the existing legislative context. It would deliver a more consistent approach and improve public confidence.

4.4 The draft Policy contains important criteria including:

- A minimum of 80% of the value of the collections to be provided to the Charity
- Financial breakdown of the remittance provided to the charity, collectors and promoters
- Details of the aims of the beneficiaries
- Details of relevant accounts and financial statements

Preferred Option

4.5 Option 2 is the preferred option. In particular a House to House Collection Policy would provide robust scrutiny of applicants, whilst setting a high level of acceptable return to charities. This Policy will ensure that those giving to charity in this manner can be confident that their support is reaching the charity that they intended it to.

5. Consultation

5.1 Licensing Board has been consulted in relation to the contents of the draft Policy and the comments have been included within the draft that is proposed for public consultation.

5.2 If permission is given for consultation, the Council will identify organisations and individuals that are likely to be affected by the revised policy and their views will be sought. These organisations and individuals will include representatives of charities at local and national level, trade organisations and fund raising groups.

6. Timetable and Accountability for Implementing this Decision

- 6.1 It is anticipated that public consultation will commence in November 2018.
- 6.2 Following the completion of the public consultation and consideration of any returns, the Policy will be presented again to Cabinet to seek adoption in the Spring of 2019.
- 6.3 The policy will be reviewed 12 months following its introduction, in order to assess whether the policy is delivering the desired outcomes.

7. Financial and Procurement Implications

- 7.1 There are no financial or procurement implications directly associated with this report. However, the Council has strong partnerships with the Voluntary, Community and Faith Sectors, which support the Council's Strategic Outcomes. Ensuring that the policy strikes the right balance between ensuring permits are only granted in appropriate circumstances whilst providing a proportionate application criteria that does not introduce unnecessary barriers for legitimate and well-meaning individuals and / or organisations, is therefore in the Council's best interest.

8. Legal Implications

- 8.1 The House to House Collections Act 1939 lays down the requirement in relation to House to House Collections.
- 8.2 Section 4 of the Act provides for the Secretary of State to prescribe regulations regarding 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.
- 8.3 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 29th December 1947. These regulations, included as Appendix 1 to the Policy, apply to all licences issued by the Council under the House to House Collection Act 1939.
- 8.4 Application for a licence must be made in the prescribed manner. The Licensing Authority cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the Act.
- 8.5 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.

- 8.6 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.

9. Human Resources Implications

- 9.1 There are no HR implications arising from this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no implications for children and young people or vulnerable adults.

11. Equalities and Human Rights Implications

- 11.1 There are no equalities or human rights implications as the Policy is within the context of an existing legal framework.

12. Implications for Partners and Other Directorates

- 12.1 It is not considered that this policy will have any direct implications for any of the Council's partners or other directorates.

13. Risks and Mitigation

- 13.1 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.
- 13.2 Consequently, it is 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.

14. Accountable Officer(s)

Tom Smith, Assistant Director, Community Safety and Street Scene

Approvals obtained from:-

	Named Officer	Date
Strategic Director of Finance and Customer Services	Julie Copley	16.07.2018
Assistant Director of Legal Services	Michelle Scales / Naim Younis	16.07.2018
Head of Procurement (if appropriate)	Karen Middlebrook	16.07.2018
Head of Human Resources (if appropriate)	John Crutchley	16.07.2018

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