

Committee Name and Date of Committee Meeting

Cabinet – 21 October 2019

Report Title

House to House Collection Policy

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

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

Lewis Coates, Enforcement and Regulatory Services Manager
01709 823117 or lewis.coates@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

The report details the findings of a public consultation carried out to seek views on key elements of a proposed House to House Collections Policy. In particular, the Council was keen to understand what levels of returns to charities the public expected when making donations, and in addition, the times at which collections might be considered to be reasonable.

The proposed House to House Collections Policy reflect the findings of the consultation and is presented with this report for consideration for adoption.

Recommendations

1. That the outcomes of the consultation on the proposed House to House Collections Policy be noted.
2. That the revised House to House Collection Policy be adopted and approved.

List of Appendices Included

Appendix 1 House to House Collection Policy
Appendix 2 Consultation Analysis and Comments Received
Appendix 3 Equalities Screening Assessment

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board – 16 October 2019

Council Approval Required

No

Exempt from the Press and Public

No

House to House Collection Policy

1. Background

- 1.1 The House to House Collections Act 1939 requires all charitable collections, which collect door to door, to be licensed in the form of a permit from the Local Authority.
- 1.2 On 23 April 2018, the Licensing Board considered proposals to introduce a House to House Collection Policy, making a number of recommendations which have been included in the draft Policy presented to Cabinet.
- 1.3 On 22 October 2018, the Cabinet recommended that views should be sought around key aspects of the Council's proposed House to House Collections Policy, through a public consultation.
- 1.4 The House to House Collections Policy provides for a clear approach to the licensing of house to house collections, setting out the Council's expectations to both collectors and the public.

2. Key Issues

- 2.1 House to house collections involve the collection of either money or items directly from a person's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities.
- 2.2 Recent years have seen an increase in the number of house to house collections taking place in the Borough. It is considered essential that permits are only issued to legitimate applicants, and that the application process is sufficiently robust to ensure that the public can be confident that collections are appropriately regulated and an adequate proportion of their donations are being given to the relevant charity.
- 2.3 Whilst legislation prescribes the process for licensing of house to house collections, it does not provide clear information in relation to the application process or guidance in relation to the interpretation of the legislation at a local level. This deficiency could be addressed by way of a local policy, however at the current time Rotherham Metropolitan Borough Council has not adopted a Policy.
- 2.4 The absence of a policy in relation to house to house collections may lead to a lack of transparency in relation to the application process and increase the likelihood of inconsistent decision making in relation to applications that are received.
- 2.5 A clear policy that defines the Council's expectations when applying for a permit to collect will ensure that key areas of concern such as the amount that is donated to charity from collections and the reasonableness of collection times can be highlighted and considered consistently. This will provide reassurance to the public and clarity to collectors.

2.6 Of the responses received to the public consultation the majority felt that collections should donate at least 80% of generated monies to the charities that the collection has been conducted for. In addition, 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.

2.7 Key aspects of the proposed policy are summarised below:

2.7.1 The application process

The policy makes it clear that applications for a licence should be made as early as possible, and at least one month prior to the date that the proposed collection is planned to take place.

In order to be considered a complete application, the applicant must provide all required information to the Council – this is specified on the application form and accompanying notes, and includes a basic disclosure relating to the promoter, details of the way that the proceeds of the collection will be allocated, as well as the dates and times that the collection will take place.

A template form is included within the policy – all applications for a licence must be made using this form.

2.7.2 Obligations on those that are granted a licence

Collections must not take place unless the appropriate authorisation is in place.

The collections must not be undertaken in a way that causes inconvenience or annoyance to any person. The policy is clear that the Council expects that collections should not take place after 7pm and collectors will not deliver bags to households that clearly state they do not wish to receive house to house collections. The Council also expects collectors to adhere to the Code of Fundraising of Practice, and any deviations from the Code will be referred through to the Fundraising Regulator.

All collectors must wear a standard ID badge (approved by the Council) and carry a Certificate of Authority with them at all times. These documents must be available for inspection on demand by an authorised officer of the Council, a police officer or the occupant of a house where the collection is being attempted.

The policy outlines a series of requirements that apply after the collection has taken place; these generally relate to the provision of prescribed returns forms giving details of the proceeds of the collection.

2.7.3 Circumstances that may lead to the refusal of an application

The legislation details a number of factors that may result in the Council refusing an application for a licence. These factors are expanded upon in the policy, and include matters such as excessive remuneration, previous convictions or failure to ensure compliance with statutory requirements.

One key aspect of the policy is the expectation that at least 80% of the proceeds of the collection will be provided to the good cause / charitable purpose. The applicant must provide sufficient information to allow this to be calculated, a failure to do this will also lead to a refusal of the application.

2.7.4 Consideration of financial information

As has been referred to above, the amount of the proceeds of the collection that are allocated to the good cause is a central principle of the policy. When making the application, the applicant must provide sufficient financial and other information so that it is clear how and the allocation of the proceeds has been calculated.

The policy also makes it clear that a failure to furnish financial returns following previous collections will result in refusal of subsequent applications.

2.7.5 Administration / Enforcement

The application process is administered by the Council's Licensing Service – however the decision to grant or refuse an application will be made by a sub-committee of the Council's Licensing Board.

Enforcement of the statutory requirements, and the requirements of the Council's policy, rests with the Assistant Director of Community Safety and Street Scene. The Assistant Director has authorised licensing officers to discharge the enforcement functions on his behalf.

2.8 The policy also provides an extract from the legislation related to the control of house to house collections; these are mandatory obligations in relation to all collections / applications and will apply in all cases.

2.9 The proposed policy is attached to this report as Appendix 1; the effectiveness of the policy will be reviewed one year after its introduction to determine its impact, and whether the aim of the policy is being achieved.

3. **Options considered and recommended proposal**

3.1 Option 1 – the Council is not required to introduce a House to House Collection Policy, albeit the Council is required to licence such activities. The Council might decide not to introduce a Policy and instead rely on the statutory text. This option would likely limit the clarity of the process and Council expectations, including the value of collections that is returned to charities, and the times at which collections might be considered to be unreasonable.

3.2 Option 2 –the Council might decide to adopt the House to House Collection Policy to include minimum values to be returned to charities and the times that would be reasonable for collection. In addition, this option will establish clarity and transparency to the process of licensing collections, and strengthen the Council's influence on what is acceptable.

3.3 The preferred option is Option 2, and the suggested House to House Collection Policy is attached at Appendix 1.

4. **Consultation on proposal**

4.1 Public Consultation began on 3 June 2019 and closed on 28 July 2019.

4.2 A total of 29 responses were received to the consultation, with a significant majority supporting the principle that at least 80% of the value of donations should be made to the charity. Key responses to the consultation included:

- 89.66% of respondents agreed or strongly agreed that the Council should ensure that charities benefit appropriately from house to house collections
- 96.55% of respondents agreed or strongly agreed that those who donated to house to house collections expected the majority of those donations to go to charity
- 79.31% of respondents agreed or strongly agreed that 80% of the value of collected items should go to charities
- 89.66% of respondents agreed or strongly agreed that it would not be reasonable to undertake collections after 8 pm

Although the majority of respondents supported 8pm, a number thought that 8 pm was too late for house collections, therefore it is recommend that 7pm and this be reviewed after one year.

4.3 It should be noted that ten respondents also indicated that the minimum value to be returned to charities should preferably be higher than 80%. This particular aspect is perhaps worthy of consideration at the point of the first review of the Policy.

4.4 The full analysis of the consultation responses is attached at Appendix 2 which in addition also lists the further comments returned by fourteen respondents.

4.5 The House to House Collections Policy attached at Appendix 1 reflects the findings of the consultation.

5. **Timetable and Accountability for Implementing this Decision**

5.1 If adopted, the revised Policy will become effective immediately.

5.2 If adopted the Policy will be published on the Council's website and all collectors will be written to advising that the new Policy is implemented.

6. Financial and Procurement Advice and Implications

- 6.1 In budgetary terms there are no financial or procurement implications directly associated with this report. A fee cannot be charged for the activity as the Council has a statutory obligation for this service with no legal provision to charge a fee. The Policy will inform work currently undertaken and be contained within existing budgets.

7. Legal Advice and Implications

- 7.1 The House to House Collections Act 1939 lays down the requirement in relation to House to House Collections.
- 7.2 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 additional licence conditions.
- 7.3 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 A to the Policy, apply to all licences issued by the Council under the House to House Collection Act 1939.
- 7.4 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, only in circumstances specified in Section 2(3) of the Act.
- 7.5 When an application for a licence is refused or the decision made to revoke an existing licence, a written notice should be issued to the applicant or holder of the licence stating upon which one or more of the grounds set out in Section 2(3) of the Act the licence has been refused or revoked.
- 7.6 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 and that right must be set out within the written notice issued. 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.
- 7.7 The Council's House to House Collection Policy refers to requesting a written assurance from collectors that they will not deliver bags to households that clearly state they do not wish to receive house to house collections. It should be noted that in the event an applicant refuses to provide a written assurance, this is not a ground for refusal and nor is it a ground for revocation should there be a failure to comply with any such assurance previously provided. In addition such an assurance would likely be the subject of legal challenge based upon interpretation.

- 7.8 The Council's Policy also states that the times of collections must not be later than 7pm. This is not something that is prescribed by the Act or the Regulations and therefore if an applicant refuses to set out the times of a collection this will not be a reason to refuse the application. However should a collection take place outside of the agreed times set out within the licence issued then the collection will have taken place without a valid licence in place.
- 7.9 The Act sets out a number of offences in respect of both those who promote a collection and those who act as a collector. The Act also makes it an offence to contravene or fail to comply with the provisions set out within the Regulations. In the event that a complaint is made to the Licensing Authority regarding the manner in which collections have been carried out or the conduct of promoters or collectors, the Council's Enforcement Policy will be adhered to and consideration given to instigating a prosecution.
- 7.10 In October 2019 the Fundraising Regulator will publish a revised Code of Fundraising Practice. This is not statutory guidance and is a voluntary code only. The Licensing Authority does not have the ability to attach additional conditions to a licence and in any event as the code is voluntary it would be unreasonable to do so as any such condition would be unenforceable by the Licensing Authority. The Council will refer any alleged breach / complaint in respect of the Code to the Fundraising Regulator for investigation.
- 7.11 As the determination of applications for House to House Collection permits is the responsibility of the Council's Licensing Board.

8. Human Resources Advice and Implications

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

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 There are no additional implications for Children, Young People or Vulnerable Adults.

10. Equalities and Human Rights Advice and Implications

- 10.1 There are no implications for equalities or human rights as the proposed amendment will be within existing legal frameworks.
- 10.2 An Equalities Screening Assessment is attached at Appendix 3.

11. Implications for Partners

- 11.1 There no implications envisaged from this report for partners.

12. Risks and Mitigation

- 12.1. The policy is a fundamental element of consistent decision making which subsequently, if it was not fit for purpose, would increase the risk of judicial challenge.

12.2 Consequently, it is essential that the Policy takes into account the views of decision makers, enforcement officers, the general public and those that may be affected by the introduction of this policy.

13. Accountable Officers

Tom Smith, Assistant Director of Community Safety and Street Scene

Paul Woodcock, Strategic Director of Regeneration and Environment

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	07/10/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	02/10/19
Head of Legal Services (Monitoring Officer)	Bal Nahal	01/10/19

This report is published on the Council's website or can be found at:-

<http://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories=>