

Committee Name and Date of Committee Meeting

Cabinet – 18 December 2023

Report Title

House to House Collections Policy

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

Yes

Strategic Director Approving Submission of the Report

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Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The Council's current House to House Collections Policy was introduced in 2019. The effectiveness of the Policy was assessed in 2020 and found to be delivering the aims of the Policy, and a commitment was made to undertake a further review of the Policy within three years. Following a review by Officers of the existing Policy, a draft version was shared for consultation. This report outlines the findings of the review and subsequent consultation and recommends that Cabinet approves the revised Policy.

Recommendations

1. That Cabinet adopts the House to House Collections Policy that is attached to this report as Appendix 1.

List of Appendices Included

Appendix 1 House to House Collections Policy 2023
Appendix 2 Equalities Screening Assessment
Appendix 3 Carbon Impact Assessment

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel
None

Council Approval Required
No

Exempt from the Press and Public
No

House to House Collections Policy

1. Background

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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 those collecting items, and the public.
- 1.5 The current Policy was introduced in 2019, with an evaluation of the effectiveness of the Policy in 2020. As part of the 2020 evaluation, a commitment was made to carry out a further review of the Policy in three years' time.

2. Key Issues

- 2.1 Whilst legislation prescribes the process for the 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 and this is where the Policy adds value.
- 2.2 The absence of a valid 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.
- 2.3 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.
- 2.4 The current Policy has been reviewed by licensing officers, and it is felt that the Policy achieves the aims that are outlined within it however, further consideration has been given to the arrangements for proceeds which has led to an amendment of the Policy as detailed further below in section 2.12.

- 2.5 Consultation has taken place to seek the views of the general public and those that are directly affected by the Policy such as those collecting items.
- 2.6 In total, the Council has received 73 responses to the consultation. Of these 73 responses, the overwhelming majority are in favour of maintaining the status quo with regard to the Policy requirements.
- 2.7 65 respondents (89%) agreed / strongly agreed that the information that applicants must provide when making an application was reasonable. The information that must be provided includes details of the collection beneficiary, details of the organisation undertaking the collection, financial information and details of any deductions that will be made before the proceeds are paid to the beneficiary of the collection.
- 2.8 70 respondents (96%) agreed / or strongly agreed that the application form was easy to understand and complete.
- 2.9 70 respondents (96%) agreed / strongly agreed that the obligations that are placed on people / organisations that are issued with a permit are appropriate. These obligations include the times that collections can be carried out, age / identification of the collectors and the actions that must take place after the collection has been completed.
- 2.10 In addition to the above, consultation has also taken place with members of the Council's Licensing Board, who were generally in agreement that the Policy delivered on the intended the aims.
- 2.11 Comments were received during the consultation regarding the current arrangement of setting a minimum percentage as the amount that would be received by the collection beneficiary the Policy currently stipulates that at least 80% of the gross proceeds of the collection must be provided to the collection beneficiary. The point was made that the use of percentages is unfair and should therefore be avoided. The principal reason given in support of this position is that the items that are collected only have value once they have been processed by the collector – and that it is unreasonable to limit the amount that can be claimed for this activity to 20% of the total proceeds of the collection (as the costs of adding value to the collected items often exceed this).
- 2.12 This position was assessed during the Policy review, and it was determined that although the Policy refers to a minimum percentage of 80% of the gross proceeds of the collection, it may further support this charitable sector to amend the Policy to provide further scope to decision makers when considering applications, and in recognition of the ongoing pressures as a result of inflation and the cost of living.
- 2.13 It is therefore proposed that the Policy is amended so that a minimum of 80% of the net proceeds must be provided to the collection beneficiary, allowing a deduction of up to 20% for the costs associated with the collection and processing of items. In addition, in order to ensure that decision makers are fully aware of the implications of the use of percentages, information from the

Institute of Fundraising regarding the use of percentages is presented to decision makers when they are being asked to determine applications for a permit.

2.14 As part of the application process, all applicants are required to provide sufficient information to allow for an assessment to be made as to whether or not the amount received by the collection beneficiary is reasonable and this will remain a requirement.

2.15 Key aspects of the proposed Policy are summarised below:

The application process

2.16 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.

2.17 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 and the dates and times that the collection will take place.

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

Obligations on those that are granted a Licence

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

2.20 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.

2.21 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.

2.22 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.

2.23 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.

2.24 One key aspect of the Policy is the expectation that at least 80% of the net 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.

2.25 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 the allocation of the proceeds has been calculated.

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

2.27 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.

2.28 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.

2.29 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.

2.30 The proposed Policy is attached to this report as Appendix 1.

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 may therefore decide not to introduce a reviewed / revised 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 may decide to adopt a revised / reviewed 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 proposed House to House Collection Policy is attached at Appendix 1.

4. **Consultation on proposal**

4.1 Consultation has taken place with members of the public, and those affected by the Policy and the response summary is detailed within section 2 of this report. This consultation has taken the form of:

- Direct contact with representatives of businesses / organisations that are directly affected by the Policy.
- Online consultation via the Council's website.
- Direct mail contact with local residents (a mailshot to over 1000 randomised residential addresses within the Rotherham Borough).
- Public drop in sessions throughout the Borough.
- Consultation at Rotherham Show.
- Contact with groups / organisations representing specific sectors of our communities.
- Direct contact with individuals that have previously responded to a consultation regarding the development of this Policy (where their details are known).
- Consultation with local ward Members.
- Publicity via local newsletters and mailings
- Press releases / social media publicity raising awareness of the Policy review.

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 implications directly associated with this report. A fee cannot be charged for the activity as the Council has a statutory obligation to provide this service with no legal provision to charge a fee. The Policy will inform work currently undertaken and the costs of the consultation and the implementation of this Policy will be contained within existing approved revenue budgets.

6.2 There are no procurement related implications introduced by this report.

7. Legal Advice and Implications

- 7.1 The House to House Collections Act 1939 sets out the requirements 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 B 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 Although the Licensing Authority does not have the ability to attach additional conditions to a licence, it can refer any alleged breach / complaint in respect of the Council's Policy or of the Code of Fundraising Practice to the Fundraising Regulator for investigation.
- 7.11 Although there is no statutory requirement for the Council to implement a House to House collections Policy, however the report sets out valid reasons as to why such a Policy should again be implemented and the clarity that the Policy provides in respect of the Council's procedures and expectations. The consultation responses have clearly been fully considered; this will minimise the risk of legal challenge when implementing the Policy.

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 CO2 Emissions and Climate Change

- 11.1 This report does not introduce any implications for CO2 emissions or climate change.

12. Implications for Partners

- 12.1. There no implications envisaged from this report for partners or other Directorates.

13. Risks and Mitigation

- 13.1 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.

13.2 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.

14. Accountable Officers

Sam Barstow, Assistant Director Community Safety and Street Scene

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	04/12/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	30/11/23
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	30/11/23

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