

# Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ**

**Wednesday, 27 August 2014 at 18:00**

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

# **Information for Members of the Public**

## **Access to information and meetings**

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**COLCHESTER BOROUGH COUNCIL**  
**Licensing Committee**  
**Wednesday, 27 August 2014 at 18:00**

**Member:**

Councillor Nick Cope  
Councillor Mike Lilley  
Councillor Roger Buston  
Councillor Margaret Fairley-Crowe  
Councillor Ray Gamble  
Councillor Dave Harris  
Councillor Julia Havis  
Councillor Pauline Hazell  
Councillor Mike Hogg  
Councillor Margaret Kimberley  
Councillor Richard Martin  
Councillor Philip Oxford  
Councillor Lesley Scott-Boutell

Chairman  
Deputy Chairman

**Substitutes:**

All members of the Council who are not Cabinet members or members of this Panel.

**AGENDA - Part A**  
(open to the public including the press)

**Members of the public may wish to note that Agenda items 1 to 5 are normally brief.**

**1 Welcome and Announcements**

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
  - action in the event of an emergency;
  - mobile phones switched to silent;
  - the audio-recording of meetings;
  - location of toilets;
  - introduction of members of the meeting.

**2 Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

**3 Urgent Items**

To announce any items not on the agenda which the Chairman has

agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

#### **4 Have Your Say!**

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

#### **5 Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

- |   |  |         |
|---|--|---------|
| 6 | <b>Minutes of the meeting held on 9 July 2014</b><br>To approve as a correct record the minutes of the meeting held on 9 July 2014.  | 6 - 7   |
| 7 | <b>Hackney Carriage Signage</b><br>See report by the Head of Professional Services.  | 8 - 11  |
| 8 | <b>House to House and Street Collection Policies</b><br>See report by the Head of Professional Services.   | 12 - 29 |
| 9 | <b>Exclusion of the Public (not Scrutiny or Executive)</b><br>In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). |         |

## **Part B**

(not open to the public including the press)

e-mail: [licensing.committee@colchester.gov.uk](mailto:licensing.committee@colchester.gov.uk)

website: [www.colchester.gov.uk](http://www.colchester.gov.uk)



# LICENSING COMMITTEE

## 9 July 2014

*Present:* - Councillor Nick Cope, Ray Gamble, Pauline Hazell, Michael Lilley, Richard Martin , Philip Oxford and Lesley Scott-Boutell

*Substitute Member:* - Councillor Graham for Councillor Havis

### 5. Minutes

*RESOLVED* that the minutes of the meetings held on 16 and 24 June were approved as a correct record.

**Councillor Lilley, because of his acquaintance with Mr Green's brother, declared his personal interest in the following item pursuant to the provisions of the Meetings General Procedure Rule 7(2)**

### 6. Advertising on Hackney Carriage Vehicles

The Committee considered a report by the Head of Professional Service regarding three letters that had been received from members of the hackney carriage trade requesting that the Committee reconsider its policy in relation to the displaying of advertising signs on hackney carriage vehicles.

On 5 April 2011, the Licensing Committee resolved that external advertising on hackney carriages licensed by the Council be limited to rear door signs, the same size as the Council supplied front door signs and that the colours used be restricted to gold lettering on a black background. The content of the sign was also restricted to the business/proprietor name and contact number or mobile number. The Committee's decision had been enforced since this time and included within the revision of the policy which was the subject of public consultation from 27 November 2012 to 10 February 2013. No comments had been received in relation to this consultation. The majority of hackney carriage proprietors had changed their signage to accord with the decision and any new signage had complied with the Committee's decision. Where non-compliant signage had been seen the owners have been requested to change it and it was in response to such requests that the three letters had been received.

Mr Saunders and Mr Gilmer attended and addressed the Committee on the issues as set out in the letters. Mr Green, the Secretary to the Hackney Carriage Association, attended the meeting on behalf of the Association and in order to answer any questions the Committee may have had on the broader issues but not to comment on the specific points raised in the three letters.

In outlining the issues, Mr Saunders explained that because approval had been given in 1989 for the signs by a previous licensing officer they did not appreciate that the changes

applied to them and that they were retrospective. It was acknowledged that greater attention should have been paid to the policy consultation. A number of reasons were put forward for the use of the non-compliant signs which centred on the issue of brand recognition and safety. By using the logo of the company on the rear door signs, which exactly matched the drop cards that were given out, it was considered that customers would find it easier to identify their taxi. Mention was also made by Councillors of the importance of the livery in branding Colchester's hackney carriage fleet and the potential adverse effect of any relaxation in the livery would need to be considered as part of a further report on the matter. It was asked why private hire vehicles were allowed to be black and pointed out that in certain circumstances they looked very similar to hackney carriage vehicles. Mr Stevens explained that it was not legally possible to impose any restrictions on the colour of private hire vehicles and the conditions went as far as was legally possible in suggesting that black vehicles should not be used for private hire.

The Committee also gave consideration to the procedure for dealing with any future concerns in relation to the policy. It was acknowledged that from time to time matters may arise in relation to the policy however the appropriate way of dealing with these was not by ad hoc consideration but as part of a planned policy review. It was therefore suggested that in future any concerns should be put in writing to the Licensing & Food Safety Manager who would respond to them and if he considered appropriate consider them as part of the next planned policy review.

*RESOLVED* that -

- (i) The Head of Professional Services be requested to submit a report to the Committee having carried out further investigation on the points raised in the letters and on the implications for the Council's Policy. Such investigations should consider the level of enforcement that had been carried out; the level of compliance; the impact that a possible relaxation of the rules could have on the appearance of vehicles and the Council's livery; and the impact on those who had already complied.
- (ii) In future any concerns in relation to the policy should be put in writing to the Licensing & Food Safety Manager who will respond to them and if he considers appropriate consider them as part of the next planned policy review.



# Licensing Committee

27 August 2014

Item

Report of	Head of Professional Services	Author	Mark Stevens
Title	Hackney Carriage Signage		☎ 506168
Wards affected	Not applicable		

**This report concerns the Council's policy on the display of advertisements on hackney carriages licensed by the Council**

## 1. Decision Required

- 1.1 To consider three representations received in relation to the displaying of advertisements on hackney carriages and to determine in the light of the contents of the report whether any change to the Council's Policy is required.

## 2. Reasons for Decision(s)

- 2.1 To respond to the request for a change in the Policy to lift the restriction on advertising on hackney carriage vehicles.

## 3. Supporting Information

- 3.1 On 9 July 2014 the Committee considered a report by the Head of Professional Services on three letters that had been received from members of the hackney carriage trade requesting that the Committee reconsider its policy in relation to the displaying of advertising signs on hackney carriage vehicles. Having considered the matter the Committee requested a further report on the points raised in the letters and on the implications for the Council's Policy.

## 4. Proposals

- 4.1 There are currently 131 licensed Hackney carriages in Colchester. The majority of hackney carriages are one man businesses who either own or rent the vehicle in use. Some drivers also subscribe to a radio circuit; bookings are made by ringing a specific telephone number and the call is cascaded down to an available driver who invariably then collects the customer. There are four main taxi circuits in Colchester:
  - A1 Taxis (Proprietor: Tony Saunders) who has 6 to 16 drivers on circuit (6 on a daily basis but up to 16 when undertaking school runs)
  - Taxi Now (Proprietor: Stuart Cain) who has 11 drivers
  - All the Fives (Proprietor: Sean Gilmer) who has 8 drivers
  - Colchester Taxis/Colchester Airport Taxis (Andy Morris) who has 8 drivers and has complied with the signage requirements).

- 4.2 On 5 April 2011, the Licensing Committee rejected an application for exterior advertising relating to a Clacton Holiday Centre. It was also resolved that external advertising on licensed hackney carriages be limited to rear door signs, the same size as the Council supplied front door signs and that the colours used be restricted to gold lettering on a black background. The content of the sign was also to be restricted to the business/proprietor name and contact/mobile number. This decision was relayed to the Colchester Hackney Carriage Association by Mr Daines, the then Protective Services Manager.
- 4.3 This resolution was included in the Council's proposed Hackney Carriage and Private Hire Licensing Policy that was subject to consultation with the whole of the Hackney Carriage and Private Hire Trade from 27 November 2012 to 10 February 2013. In the absence of any objection whatsoever, the Licensing Committee resolved to adopt the policy on 13 March 2013.
- 4.4 As a result of Mr Daines advice in April 2011 many drivers changed their signage to comply with the new regulation and any new signage that came into use also complied with the resolution. Unfortunately no statistics are available in this respect as individual drivers were under no obligation to advise the Council of any change or of new signage provided they complied with the resolution.
- 4.5 Enforcement of this element of the Policy forms a very small element of enforcement in general and has been undertaken on an ad hoc basis. As offending signage has been seen, proprietors have been asked to change their signage, or remove it, in order to comply. This has generally been done by way of a quiet word and has been dealt with quite informally. With the exception of those who have written in and whose complaints form the basis of this report, all those asked to change their signage have complied.
- 4.6 A livery for hackney carriages, licensed by Colchester, was primarily undertaken to smarten the fleet of vehicles, establish a professional fleet and improve public safety especially during the night time economy. It was also considered that the decision to formalise external advertising supported these objectives.
- 4.7 Using the above supplied figures, during the morning and afternoon school run period, it is possible that 35 hackney carriages of a total fleet of 131 will have their "own circuit" rear door signage. Outside these times it is possible that a total of 25 hackney carriages from a total fleet of 131 will be displaying their "own circuit signage". This is assuming the other A1 Taxi drivers remove their signage after completing school runs. This potentially will have a major visual impact on the hackney carriage fleet, especially when vehicles are standing on the High Street and North Station rank.
- 4.8 It has been indicated that other circuit proprietors such as Colchester Taxis will wish to revert back to their original signage should such a discretion be applied to other proprietors.

## **5. Strategic Plan References**

- 5.1 There are no direct links to the strategic plan.

## **6. Consultation**

- 6.1 In the event that the Committee determines to make a change to its policy, full consultation with the relevant parties will need to be carried out and the outcome reported to the Committee before any final decision is made.

## **7. Publicity Considerations**

- 7.1 In the event that the Committee determines to change its policy, any decision will need to be communicated to the drivers through the Council's website and by individual contact with those affected by the change.

## **8. Financial Implications**

- 8.1 There are no financial implications for the Council of a proposed change to the livery. There is no right of appeal in relation to the matter to the Magistrates Court.

## **9. Equality, Diversity and Human Rights implications**

- 9.1 There are neither equality, diversity nor human rights implications.

## **10. Community Safety Implications**


- 10.1 There are potential community safety implications in relation to the Committee's decision. In the event that the Committee determines to relax the restrictions on advertising, it may undermine public safety particularly in relation to the night-time economy.

## **11. Health and Safety and Risk Management Implications**

- 11.1 There are no health and safety or risk management implications.



27 August 2014

Report of	Head of Professional Services	Author	Mark Stevens
Title	House to House and Street Collection Policies		 506168
Wards affected	Not applicable		

**This report recommends the adoption a House to House Collection Policy and a Street Collection Policy**

## 1. Decision Required

- 1.1 To determine whether to adopt the proposed policies in relation to house to house collections and street collections.

## 2. Reasons for Decision(s)

- 2.1 To make clear and transparent the Council's position in relation to house to house and street collections.

## 3. Proposal

- 3.1 Attached at Appendix 1 and 2 are suggested policies in relation to the operation of house to house and street collections. The Council currently administers these applications in line with the processes set out in the policies but has not, to date, had a policy. In adopting the policies the Council will be making the process of application and grant open and transparent for all parties involved which will also assist in making clear to all parties their role and responsibilities.

## 4. Strategic Plan References

- 4.1 This links to the Strategic Plan by engaging with the voluntary sector to make the process of application open and transparent.

## 5. Publicity Considerations

- 5.1 In the event that the Committee determines to adopt the policies they will be placed on the Council's website.

## 6. Consultation, Financial, Equality, Diversity, Community Safety, Human Rights, Health and Safety, and Risk Management implications

- 6.1 There are no consultation, financial, equality, diversity, community safety, human rights, health and safety and risk management implications.



### **COLCHESTER BOROUGH COUNCIL HOUSE TO HOUSE LICENSING POLICY**

#### **1. Introduction**

- 1.1 Colchester Borough Council, as the Licensing Authority, is empowered under legislation (the House to House Collections Act 1939 and the House to House Collections Regulations 1947) to licence house to house charitable, benevolent or philanthropic collections involving the collection of either money or items directly from a person's property.
- 1.2 This provision also covers collections made (or attempted) within licensed premises where some or all of the proceeds are given to a charity. This can include, for example, the selling of flowers, glow bands, glow sticks and other such items.
- 1.3 National Exemption Orders are available to charities that have undertaken a high number of collections across a large number of local authority areas in the preceding two years. These orders are issued direct to the charity by the Cabinet office. A current list of these charities can be found in Appendix A.
- 1.4 Unless an Exemption Order certificate has been issued, it is an offence for any person to promote or make collections from door to door or between licensed premises without the promoter first obtaining a licence from Colchester Borough Council to do so.
- 1.5 House to house collections are an important source of fundraising for many charities as they offer a positive opportunity for the public to support charities. It is therefore imperative that collections are carried out for the benefit of the charity and in accordance with the law. The public must be confident that an adequate proportion of donations are in fact given to the appropriate charity.
- 1.6 It is now common practice for collectors to be paid by organisations to collect money or other products. When determining the remuneration and whether this is excessive the nature of the business and the overheads should be taken into account and then balanced against the amount being passed to the charity. The remuneration received by individuals involved in the collection process, at all levels, should also be considered as part of the assessment. The cost of collection also needs to be taken into account and balanced against the perception and indeed expectation that all of the money or items they donate will be given to the charity.
- 1.7 There has been a substantial increase in the number of bogus house to house collectors over the last few years and it is imperative that licences are issued to legitimate applicants only.

- 1.8 At present there is no statutory charge for the issue of a house to house collection licence. A nominal charge will however be levied for the issue of a replacement licence.
- 1.9 The Licensing Authority legally cannot grant a house to house collection licence for longer than 12 months.

## **2. Aims of the Policy**

- 2.1 The policy details the matters that will be considered when determining applications for house to house collections in the Borough of Colchester.
- 2.2 The policy aims to ensure that members of the public who wish to give to charity by way of house to house collections are able to do so in good faith and will be secure in the knowledge that an adequate proportion of whatever they donate will directly benefit the named charity.
- 2.3 The policy aims to ensure that collectors operate within the law and act fairly in their dealings with the public.
- 2.4 All grant and refusal decisions are to be delegated to officers, in accordance with this policy, and are to be notified to the applicant in the form of a refusal letter. Applicants will then have 21 days to make a written appeal against such a decision to the Licensing Committee. On the expiration of the 21 days, if no appeal has been received, the decision becomes final and thereafter appeal may be made to the Secretary of State, by existing processes. Applicants will be invited to any arranged Licensing Committee hearing to personally support their application(s).

## **3. Objectives of the Policy**

- 3.1 To achieve the policy aims, the Licensing Authority will:
  - Ensure fairness and impartiality in determining applications
  - Accommodate, where possible, all eligible requests, bearing in mind some dates and locations are especially sought after.
  - Provide equal opportunity for collectors.
  - Avoid causing nuisance to the public.
  - Set fair maximum limits to each applicant.
  - To achieve a fair balance between national and local charities.
- 3.2 The Licensing Authority suggests that all organisations adhere to the Institute of Fundraising's Code of Fundraising Practice, a copy of which can be found at [www.institute-offundraising.org.uk](http://www.institute-offundraising.org.uk)



#### **4. Collection details**

- 4.1 An application to carry out a house to house collection may be made for the entire Borough, part of the district or for any of the towns or villages that fall within the Borough boundaries.
- 4.2 Only one house to house collection for a money collection and one for other items will be permitted in each location per day with the following exceptions:
- Where collections dates of charities holding an Exemption Order overlaps with a collection date granted by the Licensing Authority to non Exemption Order holders.
  - For small scale collections in a very limited area.
  - For organised one day charitable events.
  - During the pre Christmas period, such as for the Santa Truck.
- 4.3 House to house collections to take place generally between the hours of 08.00 and 20.00.

#### **5. Local Regulation**

- 5.1 Charities to be registered with the Charity Commission or be a charitable organisation based in the locality of Colchester.
- 5.2 Where a statement of return has been “Nil” or there has been a failure to return the statement of return to the Licensing Authority within the statutory period, subsequent applications will be refused.
- 5.3 If a collection is cancelled by the organisation and a collection licence has been issued, the licence must be returned to the Licensing Authority at least 7 days prior to when the collection is due to take place. Failure to do so will result in future applications being refused.
- 5.4 All house to house collections will be conducted in accordance with all relevant legislation. See 1.1 above.

#### **6. Application Procedure**

- 6.1 All applications must be made on the Council’s prescribed application form (Appendix B) which must be fully completed.
- 6.2 Applications for requested dates are to be firm. Tentative and “post dated” applications will not be accepted.
- 6.3 No more than one house to house collection will be permitted to any one charitable organisation in each quarter. (Quarter dates being 1 Jan to 31 Mar, 1 Apr to 30 Jun, 1 Jul to 30 Sept and 1 Oct to 31 Dec).

- 6.4 Applications for a house to house collection will not be accepted if made more than six months in advance.
- 6.5 With the exception of house to house collections being undertaken by charities holding an exemption order the maximum period for each house to house collection will be limited to one week within a quarter period.
- 6.6 House to house licences issued by Colchester Borough Council will also be limited to one textile collection and one money collection (includes direct debit) in any one week.
- 6.7 Applications for a house to house collection licence will be dealt with on a “first come first served basis” and on a case by case basis.
- 6.8 Unless there are exceptional circumstances a minimum of 28 days notice must be given between the application and the proposed collection date(s).
- 6.9 A copy of the contract between the house to house collection organiser and the benefitting charity must be provided with the application.
- 6.10 Evidence of public liability insurance cover of £5 million to be provided with the application.
- 6.11 Prior to the grant of a house to house collection licence Essex Police will carry out a PNC check on the applicant and it is therefore necessary for the applicant to provide his/her home address on the application form.
- 6.12 The applicant/organisation **must** supply the following information:
- a. A full breakdown of the total income of the organisation including details of what percentages of income is to be spent on administration, fund raising, payments to collectors, staff costs, publicity etc.
  - b. How many staff will be receiving remuneration and will any of these staff be involved in the collections? Please detail.
  - c. Documentary evidence of the organisation’s current financial position and fund raising targets and distribution, to include relevant accounts and financial statements.
  - d. Details of any charitable payments made by the organisation, recipients and dates.
  - e. Details of all permits issued to you for House to House collections for all other Authorities.
  - f. Details of all House to House Collections refused by other Authorities.

- g. Details of how collectors will be recruited and how collection will be carried out, equipment to be used and copies of instructions to collectors.
- h. Details of the arrangements made for disposal of the collected items, including how the recording and banking of money will take place.
- i. How many collections by the organisation are planned to be carried out locally/nationally during the next twelve months.
- j. Details of the Accountant with their qualifications who will be responsible for the certifying of returns.
- k. A copy of the organisation's waste carriers licence (required for textile collections).
- l. How much the charity will receive as part of the proposed collection indicated as a percentage.

Additional further information may be required and will be requested as necessary.

## **7. Licensee Responsibilities**

- 7.1 The responsibilities of all those involved in house to house collections are specified in the House to House Collections Act 1939 and the House to House Collections Regulations 1947.
- 7.2 Once an application is granted, the applicant will be issued with a permit to be kept for use during the collections and a document to be sent to The Stationary Office so that a certificate of authority and the required number of collectors badges, to be worn by collectors during collections, may be issued.
- 7.3 The key responsibilities relating to a collection are as follows:
  - a. The necessary permission must be obtained from the Council.
  - b. All collectors must be over 16 years old.
  - c. Each collector must wear a standard badge and carry a certificate of authority.
  - d. Collectors must produce their badge on demand to the occupant of any house, any police officer or an authorised officer of the Council.
  - e. If a collector is carrying a collecting box, it must be sealed, numbered and clearly display the name of the charity or fund which is to benefit.
  - f. No collection must be undertaken in a manner that would inconvenience or annoy any person.
- 7.4 The key responsibilities following a collection are as follows:
  - a. Collectors must not be given access to the contents of collection boxes prior to their being returned to the applicant for opening and counting.

- b. Collection boxes must only be opened in the presence of the applicant and another responsible person. Once opened, the contents must be counted immediately and the total amount collected in each box recorded.
- c. Following the collection the applicant must complete a prescribed return form to the Council within one month of the expiry of the licence. The applicant must certify the return and have it countersigned by a qualified accountant.

## **8. The allocation of licences**

8.1 When deciding whether to grant a house to house collection licence consideration will be given to the following:

- a. If the collection is linked to specific events within the district.
- b. If the collection is linked to a nationwide campaign.
- c. If the collection will benefit local good causes, local hospices, community fund raising etc.
- d. If the collection is on behalf of a national charity, is there likely to be some benefit to the residents of Colchester Borough Council.
- e. What proportion of funds collected will be applied for purely charitable purposes.
- f. Has a licence been previously refused by Colchester Borough Council or any other Local Authority.

8.2 Applications for licences relating to emergency disasters will be considered on a case to case basis, even if they do not fall within the criteria listed above.

8.3 In addition to charities that hold an exemption order (see 1.3 above) the need for a licence can be waived by the Chief Constable of the local police area on the following grounds. If he is satisfied that the purpose of the collection is local in character and the collection is likely to be completed in a short period, he may grant the applicant a certificate in the prescribed form. When granted in this manner, a licence from the Council is not required and as such the provisions of the Regulations shall not apply to that collection.

## **9. Legal reasons for refusal**

9.1 There are six reasons why an Authority may refuse to grant a licence or, where issued, may revoke a licence. These are as follows:

- The total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
- Remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person.

- The grant of a licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
- The applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact he/she has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of Her Majesty's dominions of any offence conviction for which necessarily involved a finding that he/she acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
- The applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him/her, has failed to exercise due diligence to secure that persons authorised by him/her to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or
- The applicant or holder of the licence has refused or neglected to furnish to the Authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs.

## **10. Further reasons for refusal considerations**

- a. When considering applications the financial information is sometimes difficult to interpret. Unless the information is transparent and the proportion that will be donated to charity is clear and the Authority is confident in the calculations, the application should be refused.
- b. If the proportion allocated to the charity is clear, the Authority must be satisfied that the amount given to the charity is adequate in relation to the proceeds received. The cost of the collection needs to be taken into account and balanced against the perception of the public that all of the items or money they donate will be given to charity.
- c. It is common practice for collectors to be paid by organisations to collect money and products. When determining the remuneration and whether this is excessive, the nature of the business and the overheads should be considered and balanced against the amount being given to the charity. The remuneration received by all individuals at all levels, involved in the collection process should also be considered as part of this assessment.
- d. If no previous returns have been supplied to the Authority after previous licensed collections by the same organisation or individual within the district then the application should be refused. In addition, any action taken as a result of not complying with regulations on operating House

to House collections would also be grounds for refusal unless there are extenuating circumstances.

## **11. Regulations relating to house to house collections**

- 11.1 In preparing this Licensing policy, Licensing Officers had regard to Directive 2006/123/EC of the European Parliament on services in the international market. The EU directive relates to a number of licensing regimes, including the issuing of house to house licences.
- 11.2 In accordance with the EU Directive, the Council has examined existing procedures and formalities relating to house to house collection licence applications and, where possible, has simplified application procedures, including making provision for on line applications, and removed any unnecessary conditions or barriers to the grant of a house to house licence.
- 11.3 The EU Directive refers to “overriding reasons relating to the public interest” which allows for specific application procedures to be introduced and specific conditions to be attached to a house to house collection licence to uphold such issues as public safety, public security, protection of consumers, combating fraud and the protection of the environment and animals.
- 11.4 Matters contained within this policy seek to uphold the issues stated above, to ensure that all house to house collections are carried out in a professional and responsible manner and that the general public can be assured that all necessary checks have been undertaken to combat fraud and that all monies collected are properly accounted for.

## **12. Enforcement**

- 12.1 It is recognised that well directed enforcement activity by the Council benefits not only the public but also responsible house to house collection licence holders.
- 12.2 In pursuing the objectives detailed in this Policy, the Council will operate a proportionate enforcement regime in accordance with the Council’s Enforcement Policy.
- 12.3 The responsibility for the overall supervision of house to house collections lies with the Public Health and Enforcement Service Manager.

## **13. Departure from policy**

- a. In exercising its discretion in carrying out its regulatory functions, Colchester Borough Council will have regard to this policy document and the principles set out therein.

- b. Notwithstanding the existence of this policy, each application will be accepted on its own merit based on the principles detailed in this policy.
- c. Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so must be given. The Planning and Licensing Service Manager may authorise a departure from the policy in accordance with this section if it is considered necessary to do so in the specific circumstances.

MLS (July 2014)





## Appendix 2

### COLCHESTER BOROUGH COUNCIL STREET COLLECTION LICENSING POLICY

#### 1. Introduction

- 1.1 Colchester Borough Council, as the Licensing Authority, is empowered under section 5 of the Police, Factories, ETC. (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act 1972, to licence collections made in “any street or public place” for “charitable or other purposes”.
- 1.2 It is unlawful in the United Kingdom to hold for the benefit of charitable, benevolent or philanthropic purposes, a street collection on any street or public place without first obtaining a Street Collection Permit from a Licensing Authority, such as Colchester Borough Council.
- 1.3 “Street” is defined as including any highway and any public bridge, road, lane, square, court, footway, passage or alley whether a thoroughfare or not.
- 1.4 A “public place” is defined as “a place where the public has access”. The public place need not be in public ownership and includes shopping centres, malls and the entrances to shops.
- 1.5 Charitable collections that take place inside a shop, store, supermarket or other business at the discretion of the manager or relevant person do not require a Street Collection Permit provided that collectors remain inside the premises and do not collect outside on the premises frontage or in the premises car park, even if the outside area is in private ownership.
- 1.6 Where a charitable collection takes place outside the premises on the premises frontage or in the premises car park, even if the outside area is in private ownership a Street Collection Permit would be required together with the consent of the store manager.
- 1.7 Street Collection Permit holders are not restricted to the collection of money only, as a Street Collection Permit also covers the sale of charitable items in a public place which is exempt from the requirement of a Street Traders Licence under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.8 If the sale of charitable items in a street or public place requires the use of a stall or table, written permission to erect the stall or table must be obtained from Essex County Council’s Highways Department or the owner of the land prior to a Street Collection Permit being issued by the Licensing Authority.

- 1.9 A street collection or sale of items held in conjunction with a Pedlar's Licence will not be permitted in the Colchester district without an appropriate Street Collection Permit having been issued by the Licensing Authority.
- 1.10 A street collection or sale of charitable items held in conjunction with busking activities will not be permitted in the Colchester district without an appropriate Street Collection Permit having been issued by the Licensing Authority. Buskers collecting or purporting to collect for a charitable or benevolent purpose must be able to provide evidence to confirm this, such as a letter from the charity confirming that the busker is acting on their behalf.
- 1.11 Regulations to the Act state that moving collections such as carnival processions and other similar events involving the collection of donations from the public along a route will require a Street Collection Permit (unless the Licensing Authority has waived this requirement pursuant to Regulation 2.9 with regard to street collections).
- 1.12 At present there is no statutory charge for the issue of a Street Collection Permit. A nominal charge will however be made for replacement permits due to loss or damage to the original permit.

## **2. Aims of the Policy**

- 2.1 The aims of the Licensing Authority and this policy are to:
- safeguard the interests of public donors and beneficiaries.
  - facilitate well organised collections by bona fide charitable organisations and to ensure that good standards are met.
  - prevent unlicensed collections taking place.
  - ensure money is collected in appropriate vessels only.
  - ensure that collectors are properly authorised.
  - ensure that the proceeds of the collection are properly accounted for.
  - ensure that the Licensing Authority receives, within the prescribed Statutory timescales, a statement of the sums received during the collection.

## **3. Objectives**

- 3.1 To achieve its aims, the Local Authority will:
- ensure impartiality and fairness in determining applications.
  - accommodate all eligible requests, whilst bearing in mind that certain days and locations are especially sought after.
  - provide equality of opportunity for would be collectors.
  - avoid undue nuisance to the public.
  - set maximum limits for each applicant.
  - achieve a fair balance between local and national causes.

- 3.2 The 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](http://www.institute-of-fundraising.org.uk)

#### **4. Collection areas and collection times**

- 4.1 Applications to carry out street collections may be made primarily for Colchester Town centre, Wivenhoe, Tiptree, Dedham and any of the other villages within the Colchester district. Any collection taking place in Red Lion Square or Culver Square in the Town Centre will also require the permission of the relevant management company as well as a Street Collection Permit.
- 4.2 Applications for street collections may be made for any of the out of town stores or supermarkets with regard to paragraphs 1.4 to 1.6 above.
- 4.3 Only two street collections will be permitted per day in Colchester town centre and one street collection per day in any of the towns or villages within the Colchester Borough Council district. However, exceptions may be made in the following circumstances:
- where the charitable collection is part of a national/countrywide event and the collectors are just passing through the Colchester district.
  - where the collection is part of a carnival procession or similar event involving the collection of donations from the public along a route.
  - for very small scale collections in a limited area.
  - for organised one day charitable events.
  - during the pre Christmas period.
- 4.4 Street Collection Permits will be limited to a maximum of two consecutive days only, with the exception of permits issued for the Royal British Legion Poppy appeal and emergency collections for national and international disasters.
- 4.5 Street collections will normally be expected to take place between the hours of 09.00 and 18.00.
- 4.6 Colchester Borough Council discourages the use of animals in conjunction with street collections. Consideration will however be given to the use of some animals such as assistance dogs on written request.
- 4.7 The Licensing Authority will not require any charity collection or sale of Charitable items made in the open air at events such as School and Village fetes, dog shows, boot sales and the like to be issued with a street collection permit. Collectors are required to seek permission from the event organiser and after collection / sale has taken place advise the organiser of the amounts raised and the amounts provided for charitable purposes.

## **5. Regulations**

- 5.1 Charities must be registered with the Charity Commission or be a charitable organisation based in or close to the Colchester Borough Council district. Priority will be granted to local charitable organisations.
- 5.2 All street collections will be conducted in strict accordance with the Regulations (see Appendix A) made by Colchester Borough Council with regard to the grant of a street collection permit.
- 5.3 Where a statement of return has been “Nil” or there has been a failure to return a statement of return to the Licensing Authority within the statutory period, subsequent applications will be refused for a two year period.
- 5.4 Where a street collection permit has been issued and the collection is cancelled by the organisation, the permit must be returned to the Licensing Authority at least seven days before the collection is to take place. Failure to do so will result in subsequent applications being refused for a two year period.
- 5.5 Deductions for travel expenses to and from the place of collection will not be permitted.

## **6. Application Procedure**

- 6.1 Application must be made on the Council’s prescribed form.
- 6.2 Charitable organisations will be limited to a maximum of *(to be added)* Street collections per annum in Colchester town centre, Dedham, Tiptree and Wivenhoe.
- 6.3 Application for a street collection cannot be made more than six months in advance.
- 6.4 Application for a street collection permit will be considered and dealt with on a “first come, first served” case by case basis.
- 6.5 A minimum of 28 days notice must be given between the application and the proposed date of collection. Should there be an exceptional reason as to why this notice could not be given, this requirement may be waived at the discretion of the Licensing Officer. An example of exceptional circumstances would be street collections required in times of national and international disasters or national street collections such as “Children in Need” where the public are encouraged to carry out spontaneous collections.
- 6.6 A copy of the contract between the benefiting charity and the street collection organiser must be provided with the application.

- 6.7 Where the proposed collection is to take place outside a store or supermarket, written permission from the store manager must be provided with the application.
- 6.8 Where the proposed collection is to sell charitable items in a street or other public place using a stall or table, written permission to erect such a stall or table from Essex County Council Highways Department must be provided with the application.
- 6.9 Proof of public liability insurance cover of £2 million must be provided with all street collection applications.
- 6.10 In a case where permission is sought for an animal to be used during a street collection, proof of £2 million public liability insurance cover must be provided with the application and must specifically include the use of animals in connection with the collection.. In addition a health and safety risk assessment relating to the use of an animal at the proposed location at the time and date of the collection must also be supplied.

## **7. Allocation of permits**

- 7.1 Consideration to the following will be given to the following when deciding whether to grant a Street Collection Permit:
- If the collection is linked to a specific event(s) within the Borough
  - If the collection will benefit local good causes, local hospices, community causes etc
  - if the collection is on behalf of a national charity, is there likely to be some benefit for the residents of the Borough
  - If the collection is linked to a nationwide campaign such as Remembrance Day, Children in Need, Comic Relief etc
  - If the collection applied for is in connection with an outdoor challenge sponsorship event
  - What proportion of funds collected will be for charitable purposes
  - Has a permit been previously refused by Colchester Borough Council or any other local Authority.
- 7.2 Any application for street collection permits relating to outdoor challenge Sponsorship events will be considered on a case by case basis, in order to assess whether the proportion of funds collected to be applied to the activity costs comply with the statutory requirement that no payment shall be made out of the proceeds of a collection, either directly or indirectly, to any person connected with the promotion or conduct of the collection.
- 7.3 Applications for street collection permits in respect of emergency disasters will be considered on a case to case basis, even if they do not fall within any of the considerations listed above.

## **8. Sale of small society lottery tickets**

8.1 The sale of small society lottery tickets under the authorisation of a street collection permit is not allowed unless:

- That separate permission to do so has been granted by the Licensing Authority
- The organisation holds a valid small society lottery registration
- The sale of tickets will only take place from behind a counter or stall
- The lottery tickets have been printed in accordance with the legislation
- The sale of the tickets will be in accordance with any Gambling Commission code of practice
- Proof of public liability insurance of £5,000,000 has been provided with the application.

## **9. Regulations relating to street collections**

9.1 Colchester Borough Council have adopted regulations governing how street collections are undertaken and how funds are accounted for and these are set out in the Council's Street Collection regulations which can be found at Appendix 1 of this policy.

## **10. Enforcement**

10.1 It is recognised that well directed enforcement activity by the Council benefits both the public and responsible street collection permit holders.

10.2 The responsibility for the overall supervision of street collections lies with the Head of Professional Services.

## **11. Departure from Policy**

11.1 In exercising its discretion in carrying out its regulatory functions, Colchester Borough Council will have regard to this policy document.

11.2 Notwithstanding the existence of this policy, each application will be considered on its own merit based on the principles detailed in this policy.

12.3 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons to do so must be given. The Planning and Licensing Service Manager may authorise a departure from the policy, in accordance with this section, if it is considered necessary to do so in the specific circumstances.

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