

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

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.

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