

Charitable Collections Policy

Contents

1. Introduction
2. Policy Objectives
3. Street Collections
4. Street Collection Applications
5. House to House Collections
6. House to House Collection Applications
7. Sharing Information
8. Standards
9. Enforcement
10. Decisions
11. Review of the Policy
12. Appeals
13. Fee Structure
14. Contacts

- 1.1 Cheshire East Council regulates charitable collections in the street and also house to house collections. Some matters relating to these collections are at the discretion of the Council and it is important that the Council has a policy regarding these matters.

2 Policy Objectives

- 2.1 This policy is designed to ensure that:
- Applications are made in a timely way, neither too early nor too late
 - Ensuring impartiality and fairness in determining applications
 - Accommodating all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after
 - Providing equality of opportunity for perspective collectors
 - To avoid causing nuisance to the public
 - Setting fair maximum limits for one applicant
 - Achieving a fair balance between local and national causes

3 Street Collections

- 3.1 The Licensing Authority licenses collections made in 'any street or public place' for 'charitable or other purposes' in accordance with Section 5 of the Police, Factories, and & c. (Miscellaneous Provisions) Act 1916.
- 3.2 'Street' is defined as including any highway and any public bridge, road, lane, footway, square, court, alley or passage whether a thoroughfare or not.
- 3.3 A 'public place' is defined as places where public have access and will include shopping centres and the entranceways to shops. The foyer of a supermarket could be considered to be behind closed doors therefore would only require the consent of the manager, however if the collection also took place outside or in the car park, a licence would be required.
- 3.4 Permit holders are not restricted to the collection of money only - they can also sell articles on behalf of a charity.
- 3.5 To support the control of street collections taking place the Council has passed regulations and these are shown at Appendix A. Failure to comply with these regulations can render a person liable on summary conviction to a fine not exceeding £200.00.

4 Street Collection Applications

- 4.1 There must be a minimum of 28 days notice given between the application and the proposed date of collection. This requirement may be waived in exceptional circumstances at the discretion of the Licensing Team Leader. For example where a major charitable need has suddenly arisen, which could

not have been foreseen and that requires urgent assistance eg natural disaster relief aid.

- 4.2 Where the collection is to take place in a shopping centre, retail park or private land, written permission from the centre/site manager or land owner must be sent with the application. An application received without such permission will be deemed incomplete and rejected.
- 4.3 If the collection is to be held within a Town Centre, the Licensing Team may consult with the relevant Town Centre Manager before considering the application.
- 4.4 Tacit approval applies to this type of application when made via the Government's online portal. This means that an applicant will be able to act as though the application has been granted if they have not heard from the Licensing Authority by the end of the target completion period of 21 days.
- 4.5 Which organisation is granted a permit will be determined on a first come first served basis, although preference will be given to local charities or charities with a local connection. Exceptions to this will be for the following national charities whose collections are linked to specific dates in the year and to whom preference will be given eg Children in Need, Royal British Legion and Christian Aid Week.
- 4.6 Applications for permits or waivers will not be considered more than twelve months in advance of the proposed start date of the collection.
- 4.7 Whilst the Council does not place a specific limit on the number of collections a particular charity may apply for in a calendar year, applications will be monitored. If Officers form the opinion that an excessive number of collection permits are being applied for by one charity, this charity's applications may be referred to the General Licensing Sub-Committee. The Sub-Committee may place a restriction on the number of permits that may be granted to this charity.
- 4.8 Street Collections will generally only be permitted within town centres, retail parks or retail unit car parks. Other roads or private land may be considered for the granting of a collection permit, but this will be on the merits of the application and the nature and locality where the collection will be undertaken.
- 4.9 A maximum of two charities shall be allowed to collect within any one locality on any one day. The locality will be determined by the Licensing Officer having regard to each application. Where an applicant seeks a permit to cover multiple locations with several collectors, the Licensing Authority may limit the number of permits to one.
- 4.10 Permits to collect will only be granted for periods not exceeding seven consecutive days with a period of seven clear days between permits. This requirement may be waived in exceptional circumstances at the discretion of the Licensing Team Leader.

- 4.11 At the discretion of the Licensing Team Leader, permits may be limited to such streets or public places or such parts thereof as is considered appropriate.
- 4.12 Applications to collect to raise funds for the purpose of financing personal expeditions will not be permitted, even where a proportion of the funds raised are donated to charity.
- 4.13 The Council's Regulations makes allowance for the Regulations to be departed from in some case under specified circumstances. Any request to depart from the Regulations shall be made in writing to the Licensing Team.
- 4.14 Moving collections such as carnival processions and other similar events which involve collecting from the public along a route will require a Street Collection Permit.
- 4.15 The applicant must forward a financial return form to the Licensing Authority within one month of the date of collection showing details of the monies collected. No further permits will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.
- 4.16 Where an application for a permit is refused by an Officer, the applicant will have a right of appeal to the Council's General Licensing Sub-Committee.

5 House to House Collections

- 5.1 House to House collections are controlled by the House to House Collections Act 1939 and the House to House Collections Regulations 1947, as amended.
- 5.2 As a general rule, house to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law are required to be licensed by the authority.
- 5.3 The definition of 'collection' extends beyond requests for money, to include the sale of magazines, requests for unwanted clothing and household items, visits to persuade persons to buy goods etc, where any part of the proceeds may go to charity.
- 5.4 A collection for a charitable purpose cannot be made unless the provisions of the Act and the Regulations are complied with, otherwise an offence may be committed. If any person or organisation promotes a charitable collection then they must have a licence to do so.
- 5.5 Anyone acting as a collector where there is not a licensed promoter also commits a criminal offence. Offences are punishable by penalties ranging from a fine of up to £200.00 or in some cases up to six months imprisonment and a fine of up to £1,000.
- 5.6 The only exception to the general rule is organisations that have been granted an Exemption Certificate by the Cabinet Office under the provisions of the House to House Collections Act 1939. This Certificate allows an organisation to collect in an area without applying for a licence. The organisation must

inform the Licensing Authority of the dates and areas of any planned collections. Details of exempted organisations can be found on the Cabinet website.

6 House to House Collection Applications

- 6.1 An application for a house to house collection licence shall be made not later than the first day of the month preceding that in which it is proposed to commence the collection. This requirement may be waived in exceptional circumstances by the Licensing Team Leader.
- 6.2 The following information must be submitted with the application:
- Literature about the organisation
 - Copy of the published accounts for the collecting organisation for the previous financial year
 - If the applicant is not an official of the organisation, a letter from the charitable organisation authorising the applicant to undertake a collection on their behalf
 - Any agreement or contract details with the registered charity or individual benefiting from the collection
- 6.3 If further information is requested from the applicant to assist in the determining of the application, this must be provided in a timely fashion. Failure to do so will result in a delay to consideration, or refusal of the application.
- 6.4 Tacit approval applies to this type of application when made through the Government's online portal. This means that an applicant will be able to act as though the application has been granted if they have not heard from the licensing authority by the end of the target completion period of 21 days.
- 6.5 Charities must be registered with the Charity Commission or a charitable organisation based in/around Cheshire East.
- 6.6 Wherever possible, no more than one organisation will be permitted to collect in the same area on the same day. Applications will be dealt with on a first come first served basis.
- 6.7 In general, organisations will not be permitted to hold more than two collections throughout the Borough or part thereof during one calendar year.
- 6.8 To avoid the prospect of multiple collections being made in any one day, the Council will not grant licences for a period of twelve months. To give sufficient time to undertake a collection, it will be the policy of the Council not to grant licences for periods in excess of 14 days unless the Licensing Team Leader is satisfied that exceptional circumstances exist.
- 6.9 The applicant must forward a financial return form to the Licensing Authority within one month of the date of collection showing details of the monies collected. No licence will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

- 6.10 If the application indicates the organisation has been refused a licence to carry out a house to house collection by another Local Authority, unless there are special circumstances for the refusal, the application will normally be refused.
- 6.11 If an organisation is found to have carried out unlicensed collections, no licences will be granted to that organisation until a period of at least three years has passed without further contraventions.
- 6.12 The Licensing Authority can refuse or revoke a licence for a number of reasons:
- If too high a proportion of the proceeds are to be spent on expenses
 - If not enough of the proceeds are to be given to the charity or cause
 - If incorrect information was provided on the application form
 - If the promoter or any other person involved in the collection has been convicted of certain criminal offences, eg burglary, blackmail or fraud
 - If the grant of the licence would be likely to facilitate the commission of an offence under section 3 of the Vagrancy Act 1824
 - If the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the House to House regulations or to prevent prescribed badges or certificates of authority being obtained other than by authorised persons

In relation to the above reasons for refusal or revocation of permission, the following additional notes are included for guidance:

6.13 Amount devoted to charity

- 6.13.1 The grounds of refusal by the Licensing Authority, as set out in the 1939 Act, of an application for a licence include where the total amount likely to be applied for charitable purposes as a result of the collection is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received). For the purposes of assessing this, the Council will consider each application on its merits. In particular the Council recognises that cost of collection of goods such as textiles by a commercial operator in partnership with a charity can vary. For this reason the Council will not apply fixed minimum percentages of the total value of goods collected to be applied to charitable purposes.
- 6.13.2 In order to assess the level of proceeds going to charitable purposes consideration will be given to:
- The costs involved with making the collection (eg transport / materials / remuneration)
 - The revenue generated from the goods collected
 - The level of proceeds from the collection that will be donated to the nominated charity
 - The annual accounts submitted in terms the general performance of the collecting organisation in relation to points (a) – (c) above

6.14 Fit and proper person

6.14.1 The grounds of refusal include where the applicant is not a fit and proper person by virtue of having been convicted of certain offences. The general policy of the Council will be that anyone convicted of one of the specified offences shall not be granted a licence or shall have their licence revoked. The specified offences are:

- Offences under sections forty-seven to fifty-six of the Offences against the Person Act 1861 (robbery, burglary, and blackmail)
- Offences in Scotland involving personal violence or lewd, indecent, or libidinous conduct, or dishonest appropriation of property
- Offences under the Street Collections Regulation (Scotland) Act 1915
- Offences under section five of the Police, Factories Etc. (Miscellaneous Provisions) Act 1916
- Any offence which necessarily involved a finding that the applicant acted fraudulently or dishonestly

6.15 Exercising due diligence

6.15.1 Where the applicant for or the holder of a licence fails to exercise due diligence in ensuring that collectors authorised by him were or are fit and proper persons, then the Council may refuse to grant the licence or may revoke the licence. It is the policy of this Council that, where the Council is satisfied that due care or diligence has not been exercised, a licence will be refused or revoked.

6.16 Additional information

6.16.1 Where the applicant or the holder of a licence refuses or neglects to provide the Council with such information as the Council reasonably requires, then the Council will normally refuse the application.

6.17 Where an application for a permit is refused by an Officer, the applicant will have a right of appeal to the Council's General Licensing Sub-Committee.

7 Sharing Information

7.1 The Council will share with other enforcement bodies information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings.

8 Standards

8.1 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

- 8.2 The Code of Charity Retailing promotes good practice and high standards for charity retailing. Compliance with the Code is a mandatory part of membership of the Association for UK charity members. A copy of this code of practice can be found at <http://www.charityretail.org.uk/ccr2011.pdf>
- 8.3 The Licensing Authority acknowledges that collections of direct debit details in the street are not regulated by the 1916 Act. However, such collectors are advised to consider the advice provided by the Public Fundraising Regulatory Association. This can be found at www.pfra.org.uk.
- 8.4 Similarly, the Licensing Authority determines that collections of direct debit details house to house are outside the scope of the 1939 Act. However, such collectors are again advised to consider the advice provided by the Public Fundraising Regulatory Association.

9 Enforcement

- 9.1 It is recognised that well directed enforcement activity by the Council benefits not only the public but also responsible collectors.
- 9.2 The Council will operate a proportionate enforcement regime in accordance with the Council's relevant enforcement policies.
- 9.3 The general enforcement aims of the Licensing Authority are to:
- Safeguard the interests of both public donors and beneficiaries
 - Facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met
 - Prevent unlicensed collections from taking place

10 Decisions

- 10.1 In exercising its discretion in carrying out its regulatory functions, Cheshire East Council will have regard to this Policy document and the principles set out therein.
- 10.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits based on the licensing principles detailed in this Policy.
- 10.3 Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons for doing so must be given. The Licensing Team Leader may authorise a departure from the policy in accordance with this section if he/she considers it necessary in the specific circumstances.

11 Review of the Policy

- 11.1 This Policy will be reviewed every five years. As well as the five-yearly reviews, the policy will continue to be evaluated and may be updated at any time. Any changes to this policy must be agreed by the Licensing and Regulation Committee, unless this function is delegated to an appropriate officer.

12 Appeals

12.1 Street Collections

- 12.1.1 There is no formal right of appeal against any decision made by the Council to grant or refuse an application for a street collection permit. However, in the interests of fairness if an organisation wishes to lodge a request for a decision to be reviewed then the matter should be put in writing to the Licensing Team Leader, and the matter will be brought before the next available General Licensing Sub-Committee for determination.

12.2 House to House Collections

- 12.2.1 There is a right of appeal to the Minister for the Cabinet Office against the decision of the Licensing Authority to refuse an organisation a licence to hold a house to house collection or to revoke such a licence.
- 12.2.2 Appeals should be made in writing to:
Office of the Civil Society,
2nd Floor, Admiralty Arch, South Side
The Mall
London
SW1A 2WH
- 12.2.3 An appeal must be lodged within 14 days of the date on which Notice of refusal or revocation was given to the applicant or licence holder.

13 Fee Structure

- 13.1 There is no power within the legislation to make a charge for the processing of Street Collection permits or House to House Collection licences.

14 Contacts

Licensing Team
Cheshire East Council
Town Hall
Macclesfield
SK10 1EA
☎ 0300 123 5015
✉ licensing@cheshireeast.gov.uk
💻 www.cheshireeast.gov.uk/licensing