

Regeneration & Culture

member briefing



Leicester
City Council

Date: 29 October 2014
To: Cllr S Russell
Cc: Mike Broster, Head of Licensing & Parking
From: Rachel Hall, Licensing Team Manager
Tel/Ext: 37 3047
RE: Charitable door to door collections

Background

The Licensing & Public Safety Committee considered a report on charitable door to door collections on 11 September 2014. A copy of the report is attached at Appendix A, which gives background information on this issue.

The report concerned the percentage of the proceeds from charitable door to door collections that must be used for charitable purposes, in order to be licensed by Leicester City Council. The current policy is for zero deductions, but the Cabinet Office has indicated that this is not reasonable. It is likely that any appeal by an applicant against refusal for this reason will be successful.

Licensing & Public Safety Committee resolution

Having considered the revised guidance from the Cabinet Office, the Committee resolved:

That the Assistant City Mayor - Neighbourhood Services, be recommended to amend the Council's licensing policy for charitable door to door collections to consider each application on its merits and that a guideline figure of 75% of the proceeds being used for charitable purposes, as this was considered appropriate and proportionate in the circumstances.

Decision required

Please consider item (1) above and decide whether Leicester City Council's policy should be amended as recommended by the Committee.

S. Russell



Leicester
City Council

WARDS AFFECTED
All

APPENDIX A

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Licensing and Public Safety Committee

11 September 2014

Charitable House to House Collections

Report of the Director of Environmental and Enforcement Services

1. Purpose of Report

- 1.1. To provide the Licensing Committee with updated information on charitable house to house collections.

2. Recommendations

- 2.1. Licensing Committee is asked to comment on the current policy and advise whether or not changes are desirable.

3. Background

- 3.1. A report was brought to Licensing Committee on 20 March 2012. House to house collections are governed by the House to House Collections Act 1939 and the House to House Regulations 1947. Organisers are required to obtain a licence from the relevant licensing authority before a collection takes place. A licensing authority may refuse to grant a licence, or revoke an existing licence, for several reasons. These include:

- a) The total amount likely to be applied for charitable purposes is inadequate in proportion to the value of the proceeds likely to be received;
- b) 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.

- 3.2. The majority of charitable door to door collections operate in similar ways to each other, mainly:

- 3.2.1. Charities which undertake collections in partnership with commercial door to door collection businesses;

- 3.2.2. Charities that undertake their own door to door collections without the use of a commercial collection partner and do not sell the items through a charity shop;
- 3.2.3. Charities that undertake their own door to door collections and which sell the collected items through their charity shops.
- 3.3. Profit making businesses, including the fundraising arm of a charity, are not classed as charitable purposes.
- 3.4. It is clear that there is a cost associated with carrying out charitable collections, regardless of whether the collection is undertaken by a charity or by an agency on behalf of a charity.
- 3.5. There is some very useful information in a document produced by the National Association of Licensing and Enforcement Officers, which is attached at Appendix A.

4. Leicester City Council policy

- 4.1. On 1 September 2008, Leicester City Council adopted a policy regarding the percentage of deductions from house to house collections, as follows:

“ Approval be given to a guideline figure of zero, for remuneration from the proceeds of any house to house collection.”

- 4.2. Where a local authority refuses to grant a licence, or revokes a licence, the 1939 Act gives a right of appeal to the minister for the Cabinet Office. Until recently, the Cabinet Office would simply review whether the decision was one that the local authority could legitimately make. The Cabinet Office would not consider the merits of the application.

5. Current position

- 5.1 The Cabinet Office has now stated that it will consider appeals afresh on their merits, based on the information provided to the local authority by the applicant and any additional information provided by either party. Details of the Cabinet Office's position are included as Appendix 4 in the document attached at Appendix A.
- 5.2 The most common grounds of appeal to the Cabinet Office in recent years have been in connection with:
 - a) The total amount likely to be applied for charitable purposes as the result of the collection is inadequate in proportion to the value of the proceeds likely to be received
 - b) Remuneration which is excessive in relation to the total amount is likely to be retained or received out of the proceeds by any person

c) The applicant or licence holder has refused or neglected to provide the authority such information as they may have reasonably required for considering the case.

5.3 In relation to a) above, consideration of what is 'inadequate' will depend on the nature of the collection. The Cabinet Office will take into consideration reasonable costs of conducting the collection.

5.4 In relation to b) above, the Cabinet Office will look at whether any remuneration or expenses are reasonable for the type of work being undertaken.

6. Proposals for change

6.1. In view of the changes announced by the Cabinet Office it is felt that any appeal against a refusal based on our current policy is likely to be successful. It is proposed that the policy be changed to recognise that there are costs associated with undertaking a charitable collection. This would enable door to door charitable collections to take place lawfully, providing valuable funds for charitable purposes whilst helping to reduce waste and recycle more.

6.2. It is proposed that the Council's policy on charitable door to door collections be amended to enable each application to be considered on its merits, instead of applying a strict requirement that all proceeds, or a set percentage, must be used for charitable purposes. However, it is considered that there should be a guideline figure of 70% of the proceeds being used for charitable purposes.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

6.1. Financial Implications

If the policy is not amended, the Council could incur staff time and costs relating to appeals.

Colin Sharpe - Head of Finance ext 37 4081

6.2. Legal Implications

The proposed amendment to the Policy is in line with the changes announced by the Cabinet Office. The Council would be following the same policy in respect of the initial application that Cabinet would apply in the event of an appeal. The proposed amendment should reduce the likelihood both of an appeal to a council decision and of that appeal being successful.

Sarah Khawaja- Senior Solicitor / Regulatory Team Leader, Legal Services

7. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

8. Background Papers – Local Government Act 1972

Cabinet report 1 September 2008

9. Consultations

9.1. None

10. Report Author

10.1. Rachel Hall, Licensing Team Manager

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