



# CHARITABLE COLLECTIONS POLICY

Colchester Borough Council

Date #####

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## **Introduction and Guide to the Policy**

- 1.1 Colchester Borough Council, as the Licensing Authority, regulates charitable collections both in the street and house to house. The policy ensures that the process of application and determination is open and transparent for all parties involved and makes clear to all parties their role and responsibilities.

## **Aims and Objectives**

- 1.2 The aims of the 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 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.
- 1.3 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.

## **Exchange of Information and Data Protection**

- 1.4 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.

## **Standards**

- 1.5 The Licensing Authority suggests that all organisations adhere to the Chartered Institute of Fundraising's Code of Fundraising Practice, a copy of which can be found at [Chartered Institute of Fundraising - Homepage \(ciof.org.uk\)](http://ciof.org.uk)
- 1.6 In preparing this 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. 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 online applications, and removed any unnecessary conditions or barriers to the grant of a house to house licence. 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.

- 1.7 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 [Home — Charity Governance Code](#)

### **Consultations and Implementation of the Policy**

- 1.8 This policy will be reviewed every five years. In addition, 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 Committee, unless this function is delegated to an appropriate officer.
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## House to House Collections

- 2.1 Colchester Borough Council, as the Licensing Authority, is empowered under the House to House Collections Act 1939 and the House to House Collections Regulations 1947 to licence house to house collections for charitable, benevolent or philanthropic purposes. This includes the collection of either money or items directly from a person's property. It also covers collections made, or attempted, within licensed premises where some or all of the proceeds are given to a charity, for example the sale of flowers or glow bands.
- 2.2 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 the Council. 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 or in some cases up to six months imprisonment and a fine of up to £1,000.
- 2.3 The only exemption to the requirement to hold a licence are for those charities that hold a National Exemption Order. These Orders are issued direct to the organisation by the Cabinet Office and a list can be found on the Cabinet website at <https://www.gov.uk/government/publications/national-exemption-order-scheme>. The exemption allows an organisation to collect in an area without applying for a licence, but it must inform the Council of the dates and areas of any planned collections.
- 2.4 The need for a licence can be waived by the Chief Constable of the local police area 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. In such cases the applicant is granted a certificate in the prescribed form and as a result a licence from the Council is not required and therefore the provisions of the Regulations do not apply to that collection.

## Applications

- 2.5 An application to carry out a house to house collection may be made for the entire Borough, part of the Borough or for any of the towns or villages that fall within the Borough boundaries.
- 2.6 Applications must be made on the Council's prescribed application form.
- 2.7 Applications will not be accepted more than six months in advance and the requested dates are to be firm. Tentative and "post-dated" applications will not be accepted. Unless there are exceptional circumstances, a minimum of 28 days notice must be given between the application and the proposed collection date(s).
- 2.8 The Council cannot legally grant a house to house collection licence for longer than 12 months.

- 2.9 Only one house to house collection will be permitted to any one charitable organisation in each quarter. The quarter dates are 1 January to 31 March, 1 April to 30 June, 1 July to 30 September and 1 October to 31 December.
- 2.10 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 Council 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.
- 2.11 **No collection shall take place outside the hours of 9am and 7pm and doors should not be knocked at properties which display a sticker or sign which prohibits cold calling.** ~~House to house collections are, in general, to take place between 8.00am and 8.00pm.~~
- 2.12 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.
- 2.13 House to house licenses issued by the Council will also be limited to one textile collection and one money collection (including direct debit) in any one week.
- 2.14 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.
- 2.15 Evidence of public liability insurance cover of £5 million must be provided with the application.
- 2.16 **The licensing authority reserves the right to make more detailed enquiries about all applications in certain circumstances. This could include consulting with the Police.** ~~Prior to the grant of a house to house collection licence Essex Police will carry out a PNC check on the applicant.~~

## **Grounds for Refusal**

- 2.17 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 the applicant or holder of the licence has refused or neglected to provide the Authority with information as required by the application process.
  - The grant of a licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824.
  - The applicant or the holder of the licence has been convicted of certain criminal offences, e.g. burglary, blackmail or fraud.
  - The applicant or the holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to secure compliance with the provisions of the House to House regulations, or to

prevent prescribed badges or certificates of authority being obtained by persons other than persons so authorised; or

2.18 In addition to the reasons given above, the following additional notes are included for guidance:

- 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.
- 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.
- 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.
- 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.

## Appeals

2.19 **All refusal and revocation decisions are to be delegated to officers, in accordance with this policy, and are to be notified to the applicant in writing setting out the grounds for refusal or revocation. Any person aggrieved by the refusal to grant a licence or revoke a licence which has been granted, may appeal against the decision within fourteen days from the date on which the notice is given. Any appeal must be made to the Secretary of State and the Secretary's decision will be final.**

~~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 writing. 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. In the event that an appeal is lodged applicants will be invited to the meeting of the Licensing Committee where their appeal is to be heard to personally support their application.~~

## Licensee Responsibilities

2.20 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.

2.21 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 Stationery Office so that a certificate of authority and the required number of collectors' badges, to be worn by collectors during collections, may be issued.

2.22 The key responsibilities relating to a collection are as follows:

- The necessary permission must be obtained from the Council.
- All collectors must be over 16 years old.
- Each collector must wear a standard badge and carry a certificate of authority.
- Collectors must produce their badge on demand to the occupant of any house, any police officer or an authorised officer of the Council.
- 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.
- No collection must be undertaken in a manner that would inconvenience or annoy any person.

2.23 The key responsibilities following a collection are as follows:

- Collectors must not be given access to the contents of collection boxes prior to their being returned to the applicant for opening and counting.
- 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.
- 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.

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## Street Collections

- 3.1 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”. It is unlawful to hold a street collection for the benefit of charitable, benevolent or philanthropic purposes, without first obtaining a street collection permit from the Council.
- 3.2 ‘Street’ is defined as including any highway and any public bridge, road, lane, square, court, footway, passage or alley whether a thoroughfare or not.
- 3.3 ‘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.
- 3.4 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. 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.
- 3.5 Permit holders are not restricted to the collection of money only, as the 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.
- 3.6 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 Council.
- 3.7 A street collection or sale of charitable items held in conjunction with busking activities will not be permitted in the Borough without an appropriate street collection permit having been issued by the Council. 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.
- 3.8 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.

## Applications

- 3.9 An application for a street collection permit must be made on the Council's prescribed form.
- 3.10 Charitable organisations will be limited to a maximum of 2 street collections per annum in Colchester town centre, Dedham, Tiptree and Wivenhoe.
- 3.11 Applications for a street collection permit will be considered and dealt with on "first come, first served" case by case basis.
- 3.12 Applications for a street collection cannot be made more than six months in advance and 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 Manger** ~~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.
- 3.13 A copy of the contract between the benefiting charity and the street collection organiser must be provided with the application.
- 3.14 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.
- 3.15 Where the proposed collection is to take place in Culver Square Shopping Centre or Red Lion Walk Shopping Centre, written permission from the management company must be provided with the application.**
- 3.16 Where the proposed collection is to sell charitable items in Colchester Town Centre using a stall or table, permission must be sought from the Colchester Markets Team. Their contact details can be found the Colchester Borough Council website [www.colchester.gov.uk](http://www.colchester.gov.uk)  
~~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 must be provided with the application from Essex County Council in the case of highway land and from the relevant owner in the case of other public places.~~
- 3.17 Evidence of public liability insurance cover of £2 million must be provided with the application. 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.
- 3.18 Deductions for travel expenses to and from the place of collection will not be permitted.

- 3.19 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.

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

- 3.20 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.

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## **General Provisions**

### **Fees**

- 4.1 There is no statutory charge for the issue of a street collection permit nor for the issue of a house to house collection licence. A nominal charge will however be made for replacement permits due to loss or damage to the original permit or licence.

### **The allocation of licences**

- 4.2 When deciding whether to grant a licence consideration will be given to the following:
- If the collection is linked to specific events within the Borough.
  - If the collection is linked to a nationwide campaign.
  - If the collection will benefit local good causes, local hospices, community fund raising etc.
  - If the collection is on behalf of a national charity, is there likely to be some benefit to the residents of Colchester Borough Council.
  - What proportion of funds collected will be applied for purely charitable purposes.
  - Has a licence been previously refused by Colchester Borough Council or any other Local Authority.
- 4.3 Applications for licences relating to emergency disasters will be considered on a case to case basis.

### **Decisions**

- 4.4 In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the principles set out therein.
- 4.5 Notwithstanding the existence of this policy, each application will be accepted on its own merit based on the principles detailed in this policy.
- 4.6 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 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.

### **Local Regulation**

- 4.7 Charities are to be registered with the Charity Commission or be a charitable organisation based in the locality of Colchester.
- 4.8 Where a statement of return has been “Nil” or there has been a failure to return the statement of return to the Council within the statutory period, subsequent applications will be refused.

- 4.9 If a collection is cancelled by the organisation and a collection licence/permit has been issued, the licence must be returned to the Council 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.
- 4.10 All house to house collections will be conducted in accordance with all relevant legislation. See Paragraph 2.1.
- 4.11 All Street collections will be conducted in strict accordance with the Regulations made by the Council. A copy of the Regulations can be found at annex 1.

## **Enforcement**

- 4.12 It is recognised that well directed enforcement activity by the Council benefits not only the public but also responsible collectors and street collection permit holders.
- 4.13 The Council will operate a proportionate enforcement regime in accordance with the Council's enforcement policy.
- 4.14 The general aims of the Council 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
  - Ensure that when collecting money it is collected in appropriate vessels only.
  - Ensure that collectors are properly authorised.
  - Ensure that the proceeds of a collection are properly accounted for.
  - Ensure that the Licensing Authority receives, within the prescribed timescales, the statutory returns.
- 4.15 The responsibility for the overall supervision of house to house and street collections lies with the Licensing Manager.