

**WEST LANCASHIRE
BOROUGH COUNCIL**

**CHARITABLE COLLECTIONS
POLICY**

2019

Introduction

West Lancashire Borough Council is responsible for licensing Charitable Collections throughout the Borough. In exercising these responsibilities, the Council recognises the needs of charities and licensed collectors, and also that residents or businesses within the Borough can, and may wish to, donate to charity through such collections. However, it is important that those who do give to charity are able to do so in the confidence that the money or products they donate will directly benefit the charity.

This Policy sets out the Council's approach to these responsibilities.

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1.0 Legal Background and Rationale

1.1 Charitable Collections provide vital funds for many charities. These collections fall into two categories:

- *House to House Collections*: routinely involve the collection of either money or items for charitable purposes directly from a person's property. These activities are regulated by the House to House Collections Act 1939 (the 1939 Act) and the House to House Collections Regulations 1947.
- *Street Collections*: include collections for cash or the sale¹ of articles for charitable purposes in the street or a public place. These activities are regulated by the Police, Factories, etc., (Miscellaneous Provisions) Act 1916².

1.2 Both of the above Acts give District Councils powers to write regulations and policies to control Charitable Collections. A licence is granted to suitable House to House Collections, whereas Street Collections are controlled by the issue of a permit.

1.3 West Lancashire Borough Council, acting as the Licensing Authority (hitherto referred to as the Authority) under the above mentioned legislation, administers these regimes and associated legislation. The purpose of the licensing regime is therefore to regulate and support legitimate collectors, but also prevent and/or deter incidents of bogus or misleading Charitable Collections.

1.4 Accordingly, this Policy applies to Street Collection and House to House Collection activities in the Borough and sets out the approach the Authority will take in the authorisation of such collections when considering, and making decisions on, applications made under this regime. The Authority will aim to apply this Policy in a consistent manner; however, the Authority may depart from this Policy if it has reason to do so, but will give full justification for such departure.

1.5 Nothing in this Policy will undermine the rights of any person to apply for an authorisation and have the application considered on its individual merits.

1.6 This Policy was approved by the Council's Licensing and Appeals Committee on XXXX and will remain in force for five years. This Policy will therefore be reviewed by XXXX.

1.7 This Policy will be kept under review during this five year period, and the Commercial, Safety and Licensing Manager will maintain an 'Issues Log' in which all issues pertaining to this Policy will be recorded. Therefore the Authority will make revisions to the Policy at such times as it considers appropriate, for example where

¹ If articles are sold for personal gain, a Street Trading Permit is required.

² As amended by Schedule 29, paragraph 22 to the Local Government Act 1972

relevant issues have arisen, or where matters recorded in the 'Issues Log' indicate that that such a review is required.

Compliance

- 1.8** Once authorised, it is essential that all collectors comply with the requirements of the law and this Policy. Well directed and risk based enforcement activity benefits not only the public, but also responsible licensed collectors. Therefore, the Authority will make arrangements to monitor existing licence / permit holders, as well as those activities that are unauthorised, and take appropriate enforcement action. Enforcement visits will therefore be carried out as a response to a complaint(s) or as part of a proactive targeted initiative.
- 1.9** Where enforcement action becomes necessary, it will be taken in accordance with the Leisure and Environment Enforcement Policy which is available from the Licensing Service at the address given in Appendix C (page 19). To this end, the key principles of consistency, transparency and proportionality will be maintained.
- 1.10** Where any member of the public has a concern about an authorised or unauthorised collection, this should be submitted to the submitted to the Licensing Service using the contact details provided in Appendix C (page 19).

Data Protection

- 1.11** All applicants are required to provide relevant details on the application form. The data is used as part of the statutory application process to determine whether applicants are suitable to hold the respective licence / permit. Privacy Notices and more information is available on www.westlancs.gov.uk/licensing

2.0 House to House Collections

General

- 2.1** The Authority issues and controls licences for the majority of House to House Collections (HTH Collections). However, there are National Exemption Orders available to charities who wish undertake a high number of simultaneous HTH Collections across a number of local authority areas. A person wishing to take advantage of a National Exemption Order should apply to the relevant Secretary of State.
- 2.2** The Authority recommends that all organisations adhere to the Code of Practice set out by the Fundraising Regulator. A copy of the code of practice along with guidance notes can be found at <https://www.fundraisingregulator.org.uk/code-of-fundraising-practice/code-of-fundraising-practice>
- 2.3** The Authority determines that HTH Collections of direct debit details are outside the scope of the 1939 Act. However, such collectors are advised to consider the code of fundraising practice referred to above. The Authority will not accept HTH Collection applications for direct debit collections. However, applicants are advised to inform Lancashire County Council Trading Standards of their intention to collect.

Applications

- 2.4** Anyone wishing to conduct a HTH Collection must complete the relevant application form, which can be obtained from the Licensing Service (Appendix C, page 19). No fee is made for HTH Collection applications.
- 2.5** Applications are to be made in writing no later than 10 working days before the HTH Collection is due to take place, this period may be reduced if the Authority is satisfied that there are special reasons for so doing.
- 2.6** All applicants must supply information relating to:
- Whether it is a registered charity (stating the number), and the objectives of the charitable cause as supplied to the Charity Commission;
 - A statement of the company organisations aims as detailed in any literature;
 - Details of the history of the organisation, i.e. when formed; names of trustees, directors, organisers, etc.
 - Relevant accounts and financial statements of both the applicant, collection company and the charity (if different);
 - Remuneration amounts of senior members of the applicants organisation and the charity;
 - A written agreement between the applicant and the charity as required by the Charities Act 1992;
 - Declaration of any previous refusals for HTH Collections;

- A basic disclosure from the Disclosure and Barring Service relating to the Applicant for the licence or the director(s) of the collection company if different.

2.7 Applicants must also provide details of the following:

- The cost of running the HTH Collection (i.e. the amount to be retained by the organiser);
- The amount of money the charity will receive as part of the HTH Collection;
- The proportion of the charitable donation as a percentage of the cost of running the HTH Collection;
- The percentage of the cost of running the HTH Collection;
- A clear set of returns must be supplied – even if the person/organisation has operated HTH Collections before;
- Within the proposed licence period, state the locations within the Borough that collections are to take place and the dates on which such collections will take place.

Applicant suitability

2.8 When granting a licence for a HTH Collection, the Authority must be satisfied the applicant is a fit and proper person to hold a HTH Collections Licence. In deciding whether an applicant is fit and proper the Authority will take into consideration:

- Whether the conviction is relevant;
- The seriousness of the offence;
- The length of time since the offence occurred, in accordance with the Rehabilitation of offenders Act 1974;
- Whether there is a pattern of offending behaviour;
- Whether that person's circumstances have changed since the offence occurred;
- The circumstances surrounding the offence and the explanation offered by that person.

Licence limitations

2.9 The Authority must balance the needs of charities with those of the public. It is therefore appropriate that the Authority establishes reasonable limitations to control the duration and frequency of HTH Collections. These limitations are:

- Licences would normally be granted for a period not exceeding 12 months;
- No HTH Collection shall be made other than on the time period specified on the licence;
- No HTH Collection shall be made in a manner likely to inconvenience or annoy any person;
- No collector shall pester any person to the annoyance of such person.

2.10 The Authority may, in granting a licence, limit the HTH Collection to such streets or areas or such parts thereof as it thinks fit and specified on the licence.

Offences

2.11 A person commits an offence if they 'promote' a HTH Collection for a charitable purpose within the Borough of West Lancashire without a licence to do so.

2.12 A person commits an offence if they 'act' as a collector for a charitable purpose within the Borough of West Lancashire without a licence to do so.

Grounds for refusal

2.13 The 1939 Act provides six reasons why the Authority may refuse to grant a licence or revoke an existing licence [wording below taken from the 1939 Act]:

- 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 three 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 that he 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 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, has failed to exercise due diligence to secure that persons authorised by him 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.

Reasons for refusal considerations

- 2.14** As detailed above, an application for a HTH Collection may be refused where the proportion of money / items being given a charity is disproportionate to the amount actually collected. When considering applications, the financial information provide to the Authority can be sometimes difficult to interpret. In order for the Authority to be confident that the amount being given to charity is proportionate, the financial information provided on the application form and on any returns must be sufficiently detailed and accurate. Failure to provide detailed and accurate financial information may result in an application being refused or delayed.
- 2.15** If the proportion allocated to the charity is clear, the Authority must be satisfied that the amount to be given to the charity is adequate in relation to the proceeds received. The Authority understands that there are costs associated with organising and carrying out a HTH Collection. Accordingly, the cost of 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.
- 2.16** Refusal of the application will be given serious consideration when less than 80% of the value of the HTH Collection at the point of donation is being given to the 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 taken into account and balanced against the amount being given to the charity.
- 2.17** It is also common practice for collectors to be paid by organisations to collect money and products. Accordingly, the remuneration received by individuals involved in the collection process (at all levels) should also be considered as part of this assessment. When determining the remuneration and whether it is excessive, the nature of the business and the overheads should be taken into account and balanced against the amount being given to the charity. Therefore the Authority will give consideration to refusing an application when the remuneration amount is greater than 20% of the value of the total collection at the point of donation.
- 2.18** If no returns have been supplied to the Authority after previous licensed HTH Collections by the same organisation or individual within the Borough, then the application will be refused.
- 2.19** In addition, any action taken as a result of not complying with regulations when operating HTH Collections would also be grounds for refusal.

Exemptions

- 2.20** Exemption to House to House Licences will be given to those with Home Office Exemption Certificates.

Returns

- 2.21** Within one month after the date of any HTH Collection the person to whom a licence has been granted shall forward to the Authority:

- A statement in the form set out in the schedule to the above mentioned Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such HTH Collection and certified by that person and a member of the receiving charity;
- List of collectors;
- List of the amounts collected.

Appeals

- 2.22** Any person aggrieved by the refusal to grant a licence or by the revocation of a licence already granted is encouraged to contact the Commercial, Safety and Licensing Manager (using with contact details provide in Appendix C, page 19) without delay, but may appeal against the decision within 14 days of the date of the notice of refusal or revocation, as shown on the notice.
- 2.23** Any appeal must be made to the relevant Secretary of State.

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3.0 Street Collections

Definitions

- 3.1** 'Street' is defined as including any highway and any public bridge, road, lane, footway, square, court, alley or passage whether a thoroughfare or not.
- 3.2** 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 permit would be required.

General

- 3.3** Permit holders are not restricted to the collection of money only - they can also sell articles on behalf of a charity. To support the control of street collections taking place, the Authority has passed Regulations and these are shown at Appendix A, page 14.
- 3.4** The Authority recommends that all organisations adhere to the Code of Practice set out by Fundraising Regulator. A copy of the code of practice along with guidance notes can be found at <https://www.fundraisingregulator.org.uk/code-of-fundraising-practice/code-of-fundraising-practice>
- 3.5** The 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 code of practice set out by Fundraising Regulator referred to above.
- 3.6** Applications for permits or waivers will not be considered more than twelve months in advance of the proposed start date of the collection.
- 3.7** Collections in Ormskirk Town Centre on Market Days should only take place between 09:00am and 16:00 in the summer months and 09:00 and 15:30 in the winter months in order to avoid Market Traders and their vehicles.

Applications

- 3.8** Anyone wishing to conduct a Collection must complete the relevant application form, which can be obtained from the Licensing Service (Appendix C, page 19). No fee is made for Street Collection Permit applications.
- 3.9** Applications are to be made in writing not later than 10 working days before the collection. However, this period may be reduced if the Authority is satisfied that there are special reasons for so doing.
- 3.10** Applications will be dealt with on a first come first serve basis; where there is more than one application received at the same time, preference will be given to local charities.

3.11 All applicants must supply information relating to:

- Whether it is a registered charity (please state number), and the objectives of the charitable cause as supplied to the Charity Commission;
- A statement of the organisation's aims as detailed in any literature;
- Details of the history of the organisation, i.e. when formed; names of trustees, directors, organisers, etc.;
- If the collection is on behalf of a registered charity, then a letter of authority from the charity will be required to accompany the application.

3.12 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. Further information is provided at Appendix B, page 18.

3.13 Where the Regulations (Appendix A, page 14) allow the Authority to waive particular requirements, any request by an applicant for such a waiver must be made in writing to the Authority using the contact details in Appendix C (page 19).

Permit limitations

3.14 The Authority must balance the needs of charities with those of the public. It is therefore appropriate that the Authority establishes reasonable limitations to control the duration and frequency of Street Collections. These limitations are:

- Only one organised Street Collection in any one area at any one given time;
- No collection shall be made other than on the time period specified on the permit;
- No collection shall be made in a manner likely to inconvenience or annoy any person;
- No collector shall pester any person to the annoyance of such person.

3.15 The Authority may, in granting a permit, limit the collection to such streets or areas or such parts thereof as it thinks fit and specified on the permit.

3.16 Applicants who are unable to undertake a collection(s) must surrender the permit and return the permit(s) to the Authority prior to the collection date(s) which were granted.

Returns

3.17 Within one month of the date of any collection the person to whom a permit has been granted shall forward the following returns information to the Authority:

- A statement in the form set out in the schedule to these regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection and certified by that

person and a member of the receiving charity in the form of a letter headed response;

- A list of collectors;
- Details of the amounts collected in each collecting box;
- If the organisation has operated a collection before in any other area, then the organisation must submit a set of returns for those collections, covering the previous 12 month period;
- Even if no collection took place a 'nil' return must be submitted.

Appeals

3.18 There is no formal right of appeal against any decision made by the Authority 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 Commercial, Safety and Licensing Manager using the contact details in Appendix C (page 19).

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Appendix A West Lancashire Borough Council Street Collection Regulations

Regulations made by West Lancashire Borough Council with regard to street collections.

In pursuance of section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by section 251 and Schedule 29 to the Local Government Act 1972, West Lancashire Borough Council hereby makes the following regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within West Lancashire to collect money or sell articles for the benefit of charitable or other purposes:

1. In these regulations, unless the context otherwise requires –
 - “Collection” means a collection of money or sale of articles for the benefit of charitable or other purposes and the word “collector” shall be construed accordingly.
 - “Promoter” means a person who causes others to act as collectors;
 - “The Licensing Authority” means West Lancashire Borough Council;
 - “Permit,” means a permit for a collection;
 - “Contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 - “Collecting Box,” means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within West Lancashire unless a promoter shall have obtained from the Licensing Authority a permit.
3. An application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection; Provided that the Licensing Authority may reduce the period of one month if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The Licensing Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6.
 - a. No person may assist or take part in any collection without the written authority of a promoter.

- b. Any person authorised under paragraph 1 above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Licensing Authority or any constable.
7. No collection shall be made in any part of the carriageway of any street, which has a footway;

Provided that the Licensing Authority may, if it thinks fit, allow a collection to take place on the said carriageway where such a collection has been authorised to be held in connection with a procession.

8. With regard to each collection, where the collection involves the sale of goods:
- a. Only those goods specified in the application form and approved in writing by the licensing authority may be sold.
 - b. Prior approval must have been obtained in writing from The Chief Executive (Borough Solicitor) for the erection of any structures from which to carry out the sale.
 - c. The collectors shall ensure that they and their goods do not obstruct the highway.
9. No collection shall be made in a manner likely to inconvenience or annoy any person.
10. No collector shall importune any person to the annoyance of such person.
11. While collecting:
- a. A collector shall remain stationary; and
 - b. A collector or two collectors together shall not be nearer to another collector than 25 meters,

Provided that the Licensing Authority may, if it thinks fit, waive the requirements of this regulation in respect of a collection that is authorised to be held in connection with a procession.

12. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of 16 years to act as a collector, providing that where the West Lancashire Borough Council is satisfied that it is reasonable in the circumstances of a particular collection it may permit persons of 14 years of age or more to act as collectors and that collectors between 14 and 16 years of age will be accompanied by an adult.
- 12.
- a. Every collector shall carry a collecting box.
 - b. All collecting boxes shall be numbered and sealed in such a way as to prevent them being opened without the seal being broken.
 - c. All money received by a collector from contributors shall immediately be placed in the collecting box.

- d. Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray, which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box, which is not duly numbered.
 14.
 1. Subject to paragraph 2 below a collecting box shall be opened in the presence of a promoter and another responsible person.
 2. Where a collecting box is delivered, unopened, to a bank, it may be opened by a bank official.
 3. As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list, which shall be certified by the person.
 15.
 1. No payment shall be made to any collector.
 2. No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of services connected therewith, except such payments as may have been approved by the Licensing Authority.
 16.
 1. Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Licensing Authority:
 - a. A statement in the form set out in the schedule to these regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
 - b. A list of the collectors;
 - c. A list of the amounts contained in each collecting box; and shall, if required by the Licensing Authority, satisfy it as to the proper application of the proceeds of the collection.
 2. The Licensing Authority may, if satisfied there are special reasons for doing so extend the period of one month referred to in paragraph 1 above.
 3. For the purposes of this regulation "A qualified accountant" means a member of one or more of the following bodies:

The Institute of Chartered Accountants in England and Wales;
The Institute of Chartered Accountants in Scotland;
The Association of Certified Accountants;
The Institute of Chartered Accountants in Ireland.
 17. These regulations shall not apply:

1. In respect of a collection taken at a meeting in the open air; or
 2. To the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
18. Where there is evidence that any applicant for a permit has previously been granted a permit and
1. has failed to submit statements of account to the licensing authority within the period specified in Regulation 17 or
 2. has deducted or intends to deduct expenses in excess of 20% of the amount collected

then the authority may require a full explanation for this and reserves the right to refuse to grant any further permit in such circumstances unless a full explanation is given and the Licensing authority is satisfied as to the reasons given by the applicant.

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Appendix B Street Collection additional site permissions

To be confirmed, but will include:

WHEATSHEAF WALK, ORMSKIRK

CONCOURSE SHOPPING CENTRE, SKELMERSDALE

SANDY LANE SHOPPING CENTRE, SKELMERSDALE

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Appendix C Licensing Service Contact Details

For information on any aspect of the animal welfare licensing regime, please contact the Licensing Service:

Telephone: 01695 577177
Fax: 01695 585126
Email: licensing.enquiries@westlancs.gov.uk
Webpage: westlancs.gov.uk/licensing
Address: Robert Hodge Centre, Stanley Way, Skelmersdale WN8 8EE

Further information on this Policy can be obtained from the Licensing Service. The Director of Leisure & Environment, Heidi McDougall, has overall responsibility for the Licensing Service. The service is managed by the Commercial, Safety and Licensing Manager, Paul Charlson, who can be contacted on 01695 585246 or paul.charlson@westlancs.gov.uk

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