



GUILDFORD
BOROUGH

Charitable Collections Policy 2018

DRAFT

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1. **Introduction**

- 1.1 This policy sets out how the Council will exercise its functions under Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, the House to House Collections Act 1939 and the House to House Collections Regulations 1947 .
- 1.2 This policy will be reviewed every 5 years and/or to reflect significant changes in relevant legislation or other relevant policy and practice of the Council.

2. **Policy Objectives**

2.1 The Policy is designed to ensure that:-

- Charity collections are treated in a fair and consistent way and are well run and regulated
- each application is considered on its merits
- the public is not exposed to an excessive number of street collections
- relevant objectives of the Council's Corporate Business Plan are supported
- that the obligations of the Council's Public Sector Equality duty under the Equality Act 2010, section 149 are fulfilled by eliminating discrimination, harassment, victimisation and other conduct prohibited by the Act, advancing equality of opportunity and fostering good relations between persons who share and those who do not share protected characteristics:
- collections are for the public benefit and in line with a charitable purpose as defined by the Charities Act 2011. See Appendix 'A'.

2.2 The Council will not issue permits or licences to an individual or organisation whose aims do not appear to comply with the definition of charitable purpose under the Charities Act 2011. Applications to raise funds for the purpose of financing or sponsorship for personal expeditions are not usually permitted, even where a proportion of the funds raised is donated to charity. However, each case will be treated on its merits.

3. **Permitted Locations**

- 3.1 Charity Collections may take place in any location within the Guildford Borough.
- 3.2 The Council will only permit one Street Collection per area, per day in Guildford town centre, the Friary Centre or any other location within the Borough.
- 3.3 Appeals for cash and/or direct debit pledges to a charity cannot take place in any public place without a street collection permit or house to house collections licence. This includes collections which are part of a procession but does not include collections taken at a meeting in the open air.

- 3.4 Any collection will require the permission of the land owner, with the exception of a collection taking place on the public highway.
- 3.5 In addition to any highways and pedestrianised areas in the borough, residential streets and those places which, at the time of the appeal, members of the public have or are permitted access, public places are those that are not within a building or if within a building is in a public area to which the public has unrestricted access. A public place that is privately owned is also a public place for the purposes of this policy. For example railway stations, supermarket car parks and shopping centres.
- 3.6 Car boot sales, fetes, fairs, carnivals or other similar event where any of the 'stall holders' are selling goods where the proceeds are directed to a charitable purpose or collecting money or other property will need to be licensed by the Council unless the Regulations exempt such events as local and short term collections.
- 3.7 Applicants and collectors are required to comply with 'no cold calling', 'door step trading' or similar advisory notices which are displayed at a residential address or commercial property.

4. **Application Process**

- 4.1 Applications should be submitted on the forms used by Guildford Borough Council and received at least 28 days before the proposed collection, although there is discretion to waive this where appropriate, for example, for emergency appeals or other special circumstances. Tacit approval does **not** apply. Application forms must be signed by the applicant. Electronic signatures will be accepted. A valid permit or licence must be in place prior to any licensable activity.
- 4.2 Each application will be considered on its merits. However, the number and location of street collections may be limited to avoid clashes and/or an excessive number of collections.
- 4.3 Applications can be made at any time during the year and date(s) may be booked in advance. However, a permit or licence will not be issued earlier than 12 months before the first collection date.
- 4.4 A Charity, or an organisation acting on its behalf, which does not hold a National Exemption Order issued by the Department for Culture, Media and Sport (DCMS), must apply for a House to House Collections licence for any type of house to house fundraising activity. This includes Direct Debit and Commercial Clothing Collections and also collections made in licensed or other business premises, where more than one such premises is included in the collection.
- 4.5 Applicants must provide adequate information in order for their application to be considered properly. This includes the provision of any additional information which might be requested by the Council following submission of the application form. Should any additional information requested by the Council not be provided within the timescale required, then any application is likely to be refused.

- 4.6 All applications must be accompanied by a letter of authorisation from the charity, giving permission for the collection on behalf of the charity.
- 4.7 The Council will comply with relevant Data Protection and Freedom of Information duties. Where it is lawful to do so, the Council will share and take into account information supplied by the applicant, or another enforcement body. The Council may be required by law to supply any information provided to other bodies exercising functions of a public nature, for the prevention and detection of crime. The type of information that may be taken into account includes, submission of 'nil' returns, repeated cancellation of collections without good cause, holding an unauthorised collection or otherwise failing to comply with the Guildford Borough Council Street Collection Regulations or the House to House Collections Regulations 1947.
- 4.8 The Council will not issue permits or licences to an individual or organisation whose collectors are paid more than it considers to be 'reasonable expenses' or who do not comply with the provisions made under the Charities Act 1992 (as amended), with regard to remuneration and solicitation statements. In accordance with the Street Collections Regulations, there should be no payment made out of the proceeds of any collection to any collector or promoter of a collection.
- 4.9 All Collectors must wear an appropriate badge authorising the collection; issued by Guildford Borough Council (Street Collections), or obtain the official badge(s) from The Stationery Office (House to House Collections).
- 4.10 Within one month of the collection a 'schedule of return' must be submitted. This is an official declaration to the Council stating how much money (or equivalent value), has been collected and how much is going to be given to the charity.
- 4.11 The schedule of return should be countersigned as independent evidence that the amount raised is correct and has been paid over to the charity. This should be accompanied, where possible, with a paying in slip to the relevant bank for that charity, or other evidence of receipt by the charity.
- 4.12 Applicants are no longer required to pay for an advert stating the amount collected in the local newspapers; a letter to the Editor of the Surrey Advertiser (for example) or other local news publication thanking residents for their donations totalling £x is sufficient.

5. Supplementary guidance for House to House clothing collections

- 5.1 Where no National Exemption Order is held by the charity, supplementary guidance is set out below.
- a) a named contact within the benefiting charity will be required to submit a statement of due diligence and confirm awareness of legal requirements, and evidence that the collection will raise the maximum possible benefit to be applied for charitable purposes
 - b) the proportion of the proceeds allocated to the charitable purpose should be clear, and the Council must be satisfied that the amount given to the charitable purpose is adequate in relation to the proceeds

received. The following formula may be applied: profits applied for charitable purpose = revenue generated (through sales of clothing) – total costs incurred through collections.

- c) Commercial participators are required to communicate their name and company status on both sides of the charity appeal bag. If the bag features a charity's name, it must not be given greater prominence than the name of the company undertaking the collection.
- d) Any agency operating a collection on behalf of a charity must hold a valid Waste Carriers Licence

6. Grounds for the refusal or revocation of a House to House Collections Licence

(in accordance with the House to House Collections Act 1939 and House to House Collections Regulations 1947 (as amended)).

- 6.1 A Licensing Authority may refuse to grant a House to House Collection licence, or, where such a licence has been granted, may revoke it, if it appears to the authority that:
 - a) 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)
 - 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
 - c) 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
 - d) 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 UK of certain offences relating to dishonesty, fraud or theft
 - e) the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper or to secure compliance with the regulations or to prevent the prescribed badges or certificates being obtained by unauthorised persons
 - f) the applicant has refused or neglected to furnish the authority with such information they may reasonably require for the purpose of informing themselves as to any of the foregoing matters
- 6.2 Guildford Borough Council considers that an appropriate percentage of the proceeds which should be donated to the Charity is 80%, with no more than 20% of the value of the collection used to cover the costs of the collection, including any remuneration paid to collectors.
- 6.3 However, the Council acknowledges previous successful appeals against

decisions by local authorities to refuse collections where a lower figure was donated to the charitable cause. For this purpose, any application where the charity agrees to a lower percentage, and where the percentage donated to the charity is clearly communicated to the public on any collection material (such as charity bags), the Council will consider the application on its merits.

- 6.4 The applicant will also be required to declare that they do not have any conviction relating to dishonesty, fraud or theft. Applicants will also be expected to hold collectors to the same standard, and declare that they have taken reasonable steps to ensure that any collector does also not have any similar conviction. In cases where an applicant does have a relevant conviction, or has not taken steps to ensure the suitability of collectors, then the application is likely to be refused
- 6.5 Applicants must provide adequate information in order for their application to be considered properly. This includes the provision of any additional information which might be requested by the Council following submission of the application form. This information may include, but is not limited to:
- information seeking clarification of the charitable purpose
 - amounts donated to the charity
 - remuneration paid to collectors
 - any costs of collection or income received arising from the collection
 - the suitability of the applicant and/or collectors
 - or any information required in order to assist the Council in determining the application.
- 6.6 Should any additional information requested by the Council not be provided within the timescale required, then any application is likely to be refused in line with the regulations above.

7. **Appeals**

- 7.1 There is no statutory right of appeal against any decision made by the Council to grant or refuse a Street Collections Permit. However, if an individual or organisation/charity wishes to lodge a request for a decision to be reviewed then the matter should be put in writing to the Head of Health and Community Care Services.
- 7.2 In respect of the refusal or revocation of a House to House Collections Licence there is a right of appeal to the Minister for Civil Society, DCMS, 4th Floor, 100 Parliament Street, London. SW1A 2BQ. An appeal must be lodged within 14 days of the date on which notice of refusal or revocation was received by the applicant, or the holder of a licence.

8. **Fee Structure**

- 8.1 There is no provision for the Council to charge a fee for making an application and no fee payable on being granted a street collection permit or house to house collection licence.

9. **Enforcement**

- 9.1 Any person who contravenes the Regulations for Street Collections, as attached at Appendix 'B' to this policy is guilty of an offence, which on

conviction, is punishable by a fine not exceeding Level One on the Standard Scale (currently £200).

- 9.2 Any person who contravenes the [House to House Collections Regulations 1947](#), the guidance to which is attached at Appendix 'C' to this policy, whether in their capacity as promoter or collector, is committing a criminal offence. Offences are punishable by penalties ranging from a maximum fine of £200 up to six months imprisonment and a fine of up to £1,000.
- 9.3 If anyone undertaking a street collection on behalf of a charity does not give a police officer their name, address and signature when asked to, they could be fined up to £200.
- 9.4 Charities and third party fundraisers acting on their behalf are expected to also comply with the Fundraising Regulator Code of Fundraising Practice and guidance issued by other compliance related bodies such as the Charity Commission, Committee of Advertising Practice, Advertising Standards Authority and Trading Standards.

10. **Busking and Street Entertainment**

- 10.1 Individuals wishing to busk or provide street entertainment for a charitable purpose are asked to abide by Guildford Borough Council's Street Entertainment Policy Code of Conduct, (available on the Council's website) to this Policy, in addition to applying for a street collection permit or house to house collection licence as appropriate. Any appropriate Licensing requirements must also be met.

Charitable Purpose for the public benefit as defined by the Charities Act 2011

1. The prevention or relief of poverty.
2. The advancement of:
 - education
 - religion
 - health or the saving of lives
 - citizenship or community development
 - the arts, culture, heritage or science
 - amateur sport,
 - human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
 - environmental protection or improvement
 - animal welfare
3. The relief of those in need by reason of youth, age, ill-health, disability, disadvantage, financial hardship or other disadvantage.
4. The promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services.
5. Other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

STREET COLLECTION REGULATIONS

In pursuance of Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, section 251 and schedule 29 of the Local Government Act 1972, the Charitable Collections (Transitional Provisions) Order 1974 and the Charities Act 2006, Guildford Borough Council has made the following regulations with respect to Street Collections for the benefit of charitable or other purposes.

1. In these Regulations, unless the context otherwise requires -

"collection" means a collection of money or a 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 Guildford Borough Council; "permit" means a permit for 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 the Guildford Borough unless a promoter shall have obtained from the licensing authority a permit.
3. 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 doing so.
4. No collection shall be made except upon the day and between the hours stated in the permit and in the area specified in the permit.
5. The licensing authority may, in granting a permit, limit the collection to such localities, streets or public places or such parts thereof as it thinks fit.
6. (1) No person may assist or take part in any collection without the written authority of a promoter. The licensing authority may require a copy of such permission.

(2) 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, or member of the public.
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 collection has been authorised to be held in connection with a procession.
8. (1) No collection shall be made in a manner likely to inconvenience or annoy any person.

- (2) The licensing authority may limit the frequency of collections by an organisation within its area if it considers that the number of collections proposed by that organisation is likely to inconvenience or annoy any person.
- (3) The licensing authority may prevent two or more organisations collecting in the same locality and on the same day if it considers that it is likely to inconvenience or annoy any person.

Provided that the licensing authority may, if it thinks fit, allow two or more organisations to collect in the same location and on the same day if such collections have been authorised to be held in connection with a procession or similar event.

9. No collector shall importune any person to the annoyance of such person.

10. 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 metres
- (c) a collector shall not obstruct the flow of pedestrian or other traffic by display or distribution of information about their charity or organisation.

Provided that the licensing authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector. Provided that the licensing authority may permit persons of fourteen years of age or more to act as collectors where it is satisfied that it is reasonable in the circumstances of a particular collection and that collectors under sixteen years of age will be accompanied by an adult.

12. (1) Every collector shall carry a collecting box, and shall wear an official badge of authorisation, where such a badge has been issued by the licensing authority.
- (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
- (3) All money received by a collector from contributors shall immediately be placed in a collecting box.
- (4) Every collector shall deliver, unopened, all collecting boxes in his possession to the 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 an official of the bank.
 - (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 that 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, 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 a collection and certified by that person and either a qualified accountant or an independent responsible person acceptable to the licensing authority;
 - (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 said person shall also, within the same period, at the expense of the person and after the certificate under paragraph (1) (a) above has been given, publish in such newspaper or newspapers as the licensing authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected and the amount of expenses and payments incurred in connection with such collection. Provided that the licensing authority may if it thinks fit, waive the requirements of the sub-paragraph in respect of a collection in which the total amount collected does not exceed £150.
- (3) The licensing authority may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
- (4) For the purpose 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 of Scotland;
The Association of Certified Accountants;
The Institute of Chartered Accountants in Ireland.

17. These Regulations shall not apply -
- (a) in respect of a collection taken at a meeting in the open air; or
 - (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
18. If a collection is held by an organisation and the regulations contravened, the licensing authority may if it thinks fit, revoke any permits already granted for future collections by that organisation and refuse permission for future collections to be held within their area by that organisation or the individuals concerned.

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HOUSE TO HOUSE COLLECTIONS ACT 1939
House to House Collections Regulations 1947 (as amended)

The above Act and the Regulations made there under contain important provisions for THE REGULATION OF HOUSE TO HOUSE COLLECTIONS FOR CHARITABLE PURPOSES, and prescribe FINES AND/OR IMPRISONMENT for offences against the Act or the Regulations.

1. Except in the cases specified in Paragraphs 3 and 4:-

No collection in any locality for a charitable purpose may be made unless the promoter is licensed by the Licensing Authority for the area comprising that locality, and the collectors are authorised by the promoter.

2. Application for a licence must be made in the prescribed manner. The Licensing Authority cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the Act.

There is a right of Appeal to the Secretary of State against the refusal or the revocation of a licence, within fourteen days from the date on which notice is given of the refusal or the revocation.

3. Where the Secretary of State is satisfied that *a person pursues a charitable purpose throughout the whole, or a substantial part, of England and Wales, and is desirous of promoting collections for that purpose*, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain licences from the Licensing Authority, as respects all collections for that purpose in such localities as may be described in the Order.
4. *If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be, made is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period*, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a *Certificate* in the prescribed form; and where a Certificate is so granted, a Licence from the Licensing Authority is not required, and the provisions of the Regulations (as to which see Paragraph 5 below) shall not apply to a collection made in conformity with such Certificate.
5. Regulations have been made by the Secretary of State under the Act. The Regulations include the following, amongst other provisions –
 - a) Every promoter of a collection must exercise all due diligence to secure that persons authorised to act as collectors are fit and proper persons; and to secure compliance by collectors with the Regulations.
 - b) *No promoter of a collection shall permit any person to act as a collector unless he has issued to that person –*

- i) a prescribed Certificate of Authority; (ii) a prescribed Badge; and (iii) if money is to be collected, a Collecting Box marked, or a Receipt Book (with receipts and counterfoils or duplicates consecutively numbered) marked on every receipt, with a general indication of the purpose of the collection, and a distinguishing number.*
- c) In the case of a collection in respect of which a Licence has been granted, *every prescribed Certificate of Authority shall be given on a form obtained from The Stationery Office, and every prescribed Badge shall be so obtained.*
- d) No person *under the age of 16 years*, shall act or be authorised to act as a collector of money.
- e) No collector shall importune any person to the annoyance of such person or remain in, or at the door of, any house if requested to leave by any occupant thereof.
- f) The promoter of a collection must, within one month of the expiry of the licence, furnish an account of the collection in the form prescribed to the licensing authority or the Secretary of State, as the case may be.

DEFINITIONS

6. '*Charitable Purpose*' means any charitable, benevolent, or philanthropic purpose.
- 'Collection'* means an appeal to the public, made by means of visits from house to house to give, *whether for consideration or not*, money or other property; and '*Collector*' means a person who makes the appeal in the course of such visits.
- 'Collection costs'* includes cost of purchasing bags/leaflets, distribution costs, vehicle costs including fuel, hire, insurance and other costs, collection staff and other associated staff salaries, warehouse/storage costs and any other tangible cost that can be attributed to the door to door collection.
- 'House'* includes a place of business.
- 'Proceeds'* means, in relation to a collection, all money *and all other property given, whether for consideration or not*, in response to the appeal.
- 'Promoter'* means a person who causes others to act as collectors for the purposes of the collection.