

## **ITEM 8      Delegation of function – Charity Street Collections**

Report of the Head of Legal and Democratic Services (Portfolio: Corporate)

### **Recommended to Council:**

**That the responsibility for deciding the grant or refusal of Street Collection licences in accordance with the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 be delegated to Andover Town Council and Romsey Town Council for collections conducted solely in their respective administrative areas with effect from a date to be agreed by the Head of Legal and Democratic Services.**

#### **SUMMARY:**

- The Borough Council currently issues permissions for charitable street collections to be undertaken across the Borough.
- Following negotiations with Andover and Romsey Town Councils it is proposed to delegate to them responsibility for the administration of collections in their respective areas.

### **1      Introduction**

- 1.1 The Police, Factories, etc (Miscellaneous Provisions) Act 1916 allows local authorities to regulate public collections of money for ‘charitable or other purposes’. This legislation is normally used by national and local charities to undertake ‘flag days’ and other similar forms of fund raising where the public are asked to make a monetary donation. The Act gives no guidance as to the meaning of ‘other purposes’ but it is generally understood to mean that organisations or activities which although not charitable are charitable or non-profit making in character, will require a street collection licence.
- 1.2 The legislation applies to collections held “in any street or public place”. Whilst the meaning of street is understood there is no definition of ‘public place’ and it is generally regarded as meaning any place to which the public have access as a right and not merely as a fact. Thus a licence would not be required for a collection held inside a shop or a public house, or in the foyer of a cinema or theatre. A meeting held in the open air is specifically excluded from the definition of public place.

- 1.3 Licences not only apply to the collection of money but also to the sale of articles for charitable purposes. The legislation does not apply to the sale of articles if “sold in the ordinary course of trade and for the purpose of earning a livelihood” although in those cases a Street Trading Consent may be required. Nor does the legislation apply to the common practice amongst the larger charities of collecting direct debit mandates from the public. However, for many years the Borough Council has encouraged those organisations wishing to undertake direct debit sign up campaigns to check with the Borough Council to ensure there is no clash with other collections and no change to this practice is proposed.

## **2 Background**

- 2.1 The Head of Legal and Democratic Services has delegated authority to issue licences. The Borough Council’s current policy was approved in 2012 and appears in the addendum to the Service Level Agreement in the Annex to this report.
- 2.2 If a street collection licence is granted then the regulations made by the Council, attached as an addendum to the Service Level Agreement in the Annex to this report, will automatically apply. The purpose of these limitations is to ensure that collectors are properly authorised, that donations are receipted and stored in a secure way and that the total proceeds are properly accounted for. Returns show a huge difference between the funds collected by various organisations. This differential can be brought about by a number of factors including the locality of the collection, the number of collectors and the popularity/support for the particular cause. The regulations will continue in place as any change to them involves a lengthy process of seeking Home Office approval.
- 2.3 Street Collection applications are common; 88 applications were received in 2015 of which 50 were for Andover, 31 for Romsey, four were for other locations within the Borough and just three were for the whole Borough. Applications are processed on a first come first served basis and allocated as detailed in the policy. The current economic climate has meant continued demand from charitable organisations all hoping to arrange collections on their preferred date. Whilst the actual number of applications is minimal some time can be spent communicating with charities in assisting them find an available collection date.
- 2.4 On occasions complaints have been received about unlicensed collections. These invariably take place on a Saturday and the Borough Council is unaware of them until after the event when it is difficult if not impossible to take any action. In both Andover and Romsey, the Town Councils through the Town Centre Managers are already taking a greater role in activities in the town centres and thus it is suggested have a greater interest in ensuring that collections have been licensed. In addition, many of the local Andover and Romsey charities wanting to hold a collection are already likely to be interacting with their Town Council in respect of other matters.

### **3 Corporate Objectives and Priorities**

- 3.1 The regulation of street collections is a statutory function that does not specifically align with any of the Council's priorities. However, collections are a significant issue for those charitable organisations wishing to raise funds and collecting for a particular charitable cause can be an emotive issue.

### **4 Consultations/Communications**

- 4.1 Romsey Town Council resolved to accept the delegated function at a Council meeting on 15 September 2015 and Andover Town Council did so at a Council meeting held on 25 February 2016. No consultation with charities has been undertaken in respect of the matters raised within this report. Street Collection licences are issued to a wide range of local and national charities such that meaningful consultation would be difficult to achieve. It is the view of officers that the proposed delegation will not adversely impact upon any charitable organisation that currently applies for a Street Collection licence in Test Valley and in certain cases the proposed policy may actually assist some organisations.

### **5 Options and Option Appraisal**

- 5.1 The options available to members are either to delegate the responsibility to Andover and Romsey Town Councils or to continue as at present. As both Town Councils have indicated a willingness to undertake the function then it is recommended that responsibility be delegated. Delegating the Street Collections function in Andover and Romsey to the Town Councils is proposed as it will: allow the Borough Council to concentrate on its core licensing activities; potentially assist local Andover and Romsey charities where they may already have some contact with their Town Council; and fit in with the Town Councils' wishes to take a holistic approach to the management of activities in the town centre.

### **6 Resource Implications**

- 6.1 There are no direct resource implications as a result of the report as applications for street collections do not attract any fee. Delegation of this function will free up approximately 79 hours of officer time which will be spent undertaking other licensing related work.

### **7 Legal Implications**

- 7.1 As mentioned above, the regulation of street collections is a statutory function and so the Council must fulfil its responsibilities in determining any applications. There is no statutory right of appeal against the refusal of a street collection licence and the only way the local authority's decision could be challenged would be by application to the High Court for a review of the decision. A formal legal agreement will be drawn up with both Town Councils delegating responsibility for the function in accordance with section 101 of the Local Government Act 1972.

**8 Equality Issues**

8.1 There are no directly relevant issues relating to equality and diversity and thus an Equalities Impact Assessment has not been undertaken.

**9 Other Issues**

9.1 Community Safety – none.

9.2 Environmental Health/Sustainability Issues – none.

9.3 Property Issues – none.

9.4 Wards/Communities Affected – all Andover and Romsey wards within the areas of Andover Town Council and Romsey Town Council.

**10 Conclusion**

10.1 The legislation regarding charity collections is archaic and takes little account of modern methods of charity fund raising. New Charities Act legislation is designed to modernise the law around street collections, but the relevant provisions are not yet in force and there appears to be no prospect of them being brought into force in the foreseeable future. Further the current difficult economic situation has meant continued demand from charitable organisations all hoping to arrange collections on their preferred date. Both Andover and Romsey Town Councils have indicated a willingness to undertake responsibility for administering Street Collection licences in their respective areas. Formal delegation of the function to the Town Councils is recommended as it will allow the Borough Council to concentrate on its core licensing activities; potentially assist local Andover and Romsey charities where they may already have some contact with their Town Council; and fit in with the Town Councils' wishes to take a holistic approach to the management of activities in the town centre.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Council Minute 640, 1985			
Report to Licensing Committee 23 May 2012			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	1		
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