

Runnymede Borough Council

LICENSING COMMITTEE

Thursday 27 November 2003 at 7.30 p.m.

in the Committee Room

at the Civic Offices, Addlestone



Members of the Committee

Councillors P.A. Greenwood, A.M. Moore and B.J. Relph and 7 vacancies.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C. Pinnock, Department of Administration and Leisure, Committee Section, Civic Offices, Station Road, Addlestone (Tel. Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr. B.A. Fleckney on 01932 425620.
- iv) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

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PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
(No reports to be considered under this heading).
- b) Confidential Information
(No reports to be considered under this heading)

1. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

2. ELECTION OF CHAIRMAN

To elect a Chairman for the remainder of the Municipal Year 2003/04.

3. ELECTION OF VICE-CHAIRMAN

To elect a Vice-Chairman for the remainder of the Municipal Year 2003/04.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the report in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. TERMS OF REFERENCE OF THE LICENSING COMMITTEE (DAL)

The Council constituted this Committee on 16 October 2003 with the following remit:

- "The Licensing Committee consider all Licensing and registration matters so far as they are not expressly committed to another Committee;
- the Licensing Committee be authorised to determine all matters before it save for the Licensing Policy or other matters expressly reserved to full Council by the Constitution".

This Committee now exercises all Licensing and registration functions previously handled by the Leisure and Environment Committee and the former Licensing Sub-Committee.

The Committee must by law (with very limited exceptions) consider all matters relating to the Council's functions under the Licensing Act 2003. It must discharge all these functions other than the approval of the Licensing Policy and any licensing functions which the Council refers to another Committee because it is combined with a related matter.

The Committee may appoint one or more sub-committees, which must each consist of three members of the Committee. Regulations are expected dealing with the proceedings of both the Committee and any sub-committees. The Committee may delegate any of its functions (such as the hearing of applications) to a sub-committee.

The Committee or a sub-committee may also delegate any function to an Officer except for a number of defined matters most of which relate to the determination of applications subject to representation or objection. Generally, hearings must be held where there are Police objections.

An initial report on the position is included next on this agenda. A further report will be necessary after the relevant regulations and guidance have been issued, and training will be made available for Members in relation to the Committee's powers, fair procedure, and related topics.

(FOR INFORMATION)

Background Papers

None.

7. LICENSING ACT 2003 (DTS)
(Ref: Minutes of the Leisure and Environment Committee, September 2003, page 677, para 339, Corporate Management Committee, October 2003, page 737, para 382, and page 738 para 383 and Council, October 2003, page 889, para 422)

1. **Purpose of Report**

1.1 **The purpose of this report is to:**

- i) **update Members on the Licensing Act 2003 and the draft implementation timetable.**
- ii) **update Members on the programme of statutory consultation to be carried out on a draft Statement of Licensing Policy;**
- iii) **seek endorsement of proposals for Member training on aspects of the Licensing Act, its implementation and the procedural arrangements for its Sub-Committee meetings; and**
- iv) **appoint three Members to serve on the Licensing Sub-Committee.**

2. **Background Information**

- 2.1 The main aim of the Licensing Act 2003 is to modernise the legislation governing the sale and supply of alcohol and control of public entertainment. It is now expected that in June 2004, responsibility for licensing personnel and premises who supply alcohol will transfer from the Magistrates and become the sole responsibility of District, Borough and Unitary Authorities in England and Wales. Local Authorities are currently responsible for Public Entertainment Licences, Cinemas, Theatres and Late Night Refreshment Houses, which will also be part of the new regime.
- 2.2 At meetings of the Council, Corporate Management Committee and the Leisure and Environment Committee in the last Committee cycle, it was agreed that the posts of Licensing Officer and Licensing Clerk be established, and that a Licensing Committee also be established. It was also agreed that Officers would undertake formal consultation over a draft Licensing Policy.
- 2.3 An inter departmental working group of Officers has met on three occasions. Their purpose is to prepare Runnymede for the new regime. The Surrey Countywide Licensing Forum has also been established, and Officers have attended regular meetings of the Forum. The Forum's main objective is to minimise duplication of effort and resources and ensure that there is consistency between the policies and procedures of the Surrey Districts and to provide agencies with a single point of contact. The forum is currently working on a strategy for publicity including the production of leaflets, Member and Officer training, an awareness campaign for licensees, developing technical regulations and liaising with the representatives of the Licensing Justices.

3. **Report**

- 3.1 The Department for Culture, Media and Sport (DCMS), has recently put back its proposed timing for implementation of the Licensing Act 2003. This now allows for an extended consultation process, and for the Council's new Licensing Officer to become involved at an early stage in the process.

Guidance

- 3.2 The draft guidance issued previously has not yet been agreed or approved by Ministers. The DCMS submitted the Licensing Bill before the House of Lords on 14 November 2003, and it is expected that the guidance will be put before Parliament shortly thereafter. The final guidance cannot be issued until it has been approved by Parliament.

Secondary legislation

- 3.3 The secondary legislation required for transition covers fees, forms and plans and is also expected to be put before Parliament in November. This is likely to be shortly after the guidance document is put before Parliament, though it does not need to wait for the guidance to be approved.

First Appointed Day

- 3.4 The DCMS has indicated there will be six months between the guidance being issued to local authorities and the "first appointed day". The transitional period, when both regimes will run in parallel, commences with the first appointed day. During this period Runnymede must issue new licences which will come into force on the "second appointed day". The DCMS cannot be certain when the first appointed day will be because it cannot predict how long the guidance will take to be approved by Parliament. However, the Local Government Association has informed the DCMS that there will be difficulties in commencing the transition period, if this coincides with the local government elections scheduled to take place on 10 June 2004.

Second Appointed Day

- 3.5 The second appointed day, when the Licensing Justices' liquor licensing regime formally ends and Runnymede's new licensing regime takes over, is expected to be nine months after the first appointed day. The Licensing Justices will continue to be the Licensing Authority until the second appointed day.

Licensing Policy

- 3.6 Section 5 of the Act requires the licensing authority to prepare and publish a statement of its Licensing Policy every 3 years. Before determining the policy a statutory range of specified persons or groups must be consulted. Such a policy must be published before the authority carries out any functions in respect of individual applications made under the terms of the 2003 Act. The latest draft policy is attached at Appendix 'A', and the revised proposed timetable for the consultation is set out below:

Early Draft Policy Agreed	Nov 2003
Consultation Commences	Feb 2004
Consultation Complete	March 2004
Licensing Committee	April 2004
Corporate Management Committee	April 2004
Council Meeting	April 2004
Policy In Force	June 2004

- 3.7 Officers have carried out informal consultation with all holders of liquor licences, which is approximately 320 premises, informing them of the new licensing regime, and asking for information on proposed changes to opening hours. The Council received 76 replies, which is approximately 25%.
- 3.8 The survey has been useful in starting dialogue with licence holders. More than half of respondents are not intending to vary their opening hours under the new regime. From the responses received it is clear that the consultation process should separately target each of the different types of licence holders, as each group has different concerns and needs.
- 3.9 For the purposes of the consultation licence holders will be divided into four groups:
- off licensed premises,
 - on licensed premises (public houses) and restaurants,
 - premises with occasional permissions (for example, schools)
 - registered clubs.

Several premises have offered to provide accommodation for the purpose of consultation briefings and meetings. A further briefing letter has been sent to licence holders.

- 3.10 Training for Members serving on the new Licensing Committee and Licensing Sub-Committee is required and necessary. Officers are proposing initial awareness training for Members early in the new year, followed by a one-day training course in May 2004.
- 3.11 A Licensing Officer is due to be appointed shortly, subject to receipt of satisfactory references and a medical report. It is envisaged that the Licensing Officer will take up his new post in early January 2004. Half of the administrative post has been filled internally, whilst the other half is being kept vacant. This will be reviewed in May, once the full implications of the administrative workload under the new licensing regime have been clarified.

Other Functions

- 3.12 The Committee also has all the functions previously exercised by the former Licensing Sub-Committee. It may be appropriate to appoint one or more sub-committees to deal with functions under the Licensing Act 2003, and another to deal with the "old" licensing functions. Officers will consider this further and report back.

Immediate constitution of a sub-committee

- 3.13 For now, it would be wise to constitute a single sub-committee for functions arising under the Licensing Act 2003. The Act requires that this sub-committee should comprise three Members. It is suggested that they be Members available in the daytime. This will give maximum flexibility for matters requiring urgent determination or for hearings.
- 3.14 It is unclear whether the Government intends the political balance requirements to apply to the Licensing Committee and its Sub-Committees. On the assumption that it does the Sub-Committee must comprise two Conservatives and one Runnymede Independent.

4. Council Policy

- 4.1 The Leader's Position Statement 2004/05 states:

"We will fulfil our statutory duties and form a Licensing Committee to comply with the proposed Licensing Act, under which very substantial additional responsibilities for licensing public houses, etc. are being placed upon us, and we will seek additional funding to support the costs of providing this service."

5. Resource Implications

- 5.1 The Act provides for the setting of fees nationally in relation to licence applications on the basis of full cost recovery for the licensing authority. However, the level of fees has yet to be finalised and the Council will not receive any fee income until the new arrangements become operational.
- 5.2 As presently understood, fee income is unlikely to cover the cost of the licensing function. A further report will be required when the cost implications have become clearer.
- 5.3 If the Committee servicing requirements for the new licensing panels are relatively straight forward (this can only be established following receipt of the guidance and regulations), it is envisaged that this task can be undertaken by the Licensing Clerk post. However, at present there remains the possibility of an additional call on the resources of the Committee Section for which no provision currently exists.
- 5.4 An as yet unknown quantity of legal services to Officers, and at Committee and Sub-Committee level, will be required. There will also be a requirement for representation of the Council at appeals and in enforcement.
- 5.5 Officers will quantify any additional resources needed in the Legal and Committee sections as soon as they are able to do so.

6. Legal Implications

- 6.1 The Council cannot formally consult on a policy until the guidance is published.

7. Environmental Implications

7.1 The licensing objectives that the Council must promote in carrying out the function (the prevention of crime and disorder, public safety, the prevention of public nuisance, the protection of children from harm) all contribute to the Council's environmental and sustainability objectives.

OFFICERS' RECOMMENDATION that -

- i) the proposals for Member Training in all relevant aspects of the Licensing Act 2003 be endorsed;**
- ii) Officers arrange the necessary training accordingly;**
- iii) a Licensing Sub-Committee be constituted with immediate effect; and**
- iv) the Sub-Committee consist of three Members (two Conservatives and one Runnymede Independent)**

(TO RESOLVE)

Background Papers

Licensing Act 2003, and draft Guidance.

8. PUBLIC COLLECTIONS FOR CHARITABLE, PHILANTHROPIC AND BENEVOLENT PURPOSES – A CONSULTATION PAPER ON PROPOSALS FOR A NEW LOCAL AUTHORITY LICENSING SCHEME (DAL)
(Ref: Minutes of Leisure and Environment Committee, November 2002, page 778 para 443)

Purpose of Report

1.1 The purpose of this report is to seek endorsement of this Council's response to the Home Office Consultation Paper 'Public Collections', detailing proposals for a new local authority licensing scheme for public charitable collections.

1.2 Officers would welcome any comments or suggestions Members might have which will assist in finalising the formal response.

2. Background Information

2.1 At its meeting in November 2002, the Leisure and Environment Committee approved a response to a Home Office Consultation Paper entitled 'Private Action Public Benefit', which set out initial proposals for a new local authority licensing scheme for public charitable collections.

2.2 The Home Office has prepared a second Consultation Paper, which sets out in more detail the ideas promulgated in the first paper. It is intended that the new local authority licensing scheme will be weaved into the forthcoming Charities Bill, and at a later stage, detailed guidance for local authorities on the operation of the scheme will be formulated, consulted upon and introduced.

2.3 The Charities Bill will have an effect on the way in which local authorities construct their policies regarding public charitable collections, and they will be obliged to review any policies already in place such as this Council's own street collections criteria.

2.4 Responses to the consultation paper must be submitted to the Home Office by 2 December 2003.

2.5 The Home Office has stated in the consultation paper that they will refer publicly to views expressed by those they consult with unless a request for non-disclosure is made. Therefore, the Committee is asked to indicate whether they wish such a request to be made when the response to the consultation paper is submitted.

3. Report

3.1 Officers have attended a number of consultation meetings with the Home Office on the proposals and their input has, to an extent been included in the proposals in the latest consultation paper. Officers consider it is important that Members are given the opportunity to contribute so that their views are included in the Council's formal response.

3.2 The Home Office consultation paper is split into three sections and concludes with 34 questions relating to different aspects of the proposals. In addition to the main consultation paper, the Home Office has also produced a Partial Regulatory Impact Assessment which they are required to do. A response to this paper has also been invited. Therefore, Officers have prepared a draft response for which approval from this Committee is also sought.

3.3 For the sake of simplicity, Officers have reproduced the questions in bold followed by the suggested draft Officer response in italics. Where necessary, a short explanation of the proposal will appear before the Officer comment to the relevant question and response.

3.4 **Section 1 – The structure of the scheme**

1. Is the proposal for a new integrated licensing scheme in principle a good one?

Separate legislation currently governs house to house and street collections. It is proposed that under the new regime a new integrated licensing scheme be introduced.

Yes. This will simplify the licensing process, promote consistency and acknowledge the forms of fundraising which are currently not covered by existing legislation.

2. Should a licence be needed to carry out face to face fundraising?

Yes.

3. What would be the main consequences of licensing face-to-face fundraising for local authorities and fundraising organisations?

Although it would result in more work for both parties, this would be outweighed by the benefits of providing local authorities with a means of regulating and controlling such activity. It would also assist the fundraising organisations in ensuring accountability and public confidence in their activities.

4. Should the definition of 'public place' include private property to which the public has unrestricted access (for example, supermarket forecourts)?

Yes. This will reduce 'double booking' by supermarkets and local authorities, give greater safeguards against unauthorised collections taking place and eliminate the 'grey area' of where and where not to licence.

5. Should some types of property and types of collection be explicitly excluded? If so, are the right exceptions proposed (for example, collections in shops)?

Yes. The proposal to exclude church and school premises and events primarily aimed at raising money for charitable purposes are sensible. It would be the responsibility of the event organiser to 'vet' the fundraisers. Collections in shops should not be exempt.

6. Should small local collections be exempt?

No. Carol singers, and collections taking place in pubs should also be licensed. Small ad hoc collections confined to one borough need to be included for the sake of consistency and to prevent bogus collections.

7. How should a small local collection be defined?

As above. Carol singing, and collections confined to a ward or borough.

8. Is the proposal for 'lead authorities' (to assess the eligibility of collections where the proposed activity spans a number of local authority areas) a good one? What would the impact be for district councils?

9. What are the advantages of the 'lead authority' proposal?

10. What are the disadvantages of the 'lead authority' proposal?

The answer to all of these questions is largely dependent on how 'lead authorities' are to be defined and appointed. This Council is totally opposed to the proposal that a charity or fundraising organisation should have a choice about nominating the authority which it wishes to assess its eligibility.

However, there is merit in exploring the idea that the lead authority is the one in which the Head Office of the organisation or charity is situated. Although this would have resource implications for local authorities it would assist in their retaining some local control through local knowledge and would spread the workload between local authorities. In order for the 'lead authority' concept to work, it would have to be adequately resourced, perhaps through some ring fenced funding from central Government.

The question of accountability needs to be addressed. Who would be responsible in the situation where a 'lead authority' deemed an organisation eligible which it is later discovered to be operating in a way which contravenes the regulations? Also, who would be in the position to check that each lead authority was acting consistently and fairly?

It has been suggested that the Charity Commission be appointed by the Government as the central body to assess the eligibility of the charity or fundraising organisation. It could be argued that this is the only way to achieve absolute consistency. However, in order to do this properly, the Charity Commission must be given greater resources and enforcement powers, including that of the prosecution of bodies found to be operating illegally or in contravention of new regulations or guidance.

In addition, the scope of the Charity Commission would have to have extended to cover fund raising organisations which are not charities such as Amnesty International and similar bodies.

11. Is the proposal to differentiate between administrative arrangements for the collection of goods a sensible one?

Yes. The collection of goods for charity shops is sufficiently different in nature to allow for different administrative arrangements. However, there need to be safeguards in place to protect the legitimate charity shops from the commercial companies who also collect goods but are not strictly charitable in nature or operation.

12. Is there any reason why the appeal process should not be the same for both types of collection?

No, although giving the organisers of street collections the same right of appeal as those for house to house collections does have resource implications for local authorities and the Magistrates' Court if a significant number of charities decide to appeal against refusals.

13. Are there any arguments for not making the Magistrates' Court the avenue of appeal?

No, as long as they are sufficiently resourced and willing to assume this duty.

14. Should responsibility for licensing public collections in London be transferred from the police to local authorities?

Yes.

15. Do you consider that any offences should be added to or removed from the list?

Penalties for non-compliance.

It is proposed that the new scheme would provide sanctions built on those currently provided by the House to House Collections Act 1939 and Part III of the Charities Act 1992 with the addition of ' Breaching the requirements on the record keeping of specified records/the submitting of returns'.

The list is sensible. However, it would be prudent to consider the inclusion of offences relating to crimes against children and sexual offences, given that traditional collectors and face to face fund raisers have direct contact with the public, sometimes in their homes.

16. Cost of administering the licensing scheme:

a) What information do charities and local authorities have which they could without disproportionate effort make available to us?

b) What are the costs of administering the present system?

As a sub 85,000 population authority the costs are approximately £4,800 per annum. For a larger authority the costs would be much higher.

c) What additional costs/savings are envisaged under the proposed system? Estimates of the financial costs/savings would be welcomed.

It would be difficult to predict any cost savings, but it is likely that the new system will be more expensive to administer given the predicted increase in applications likely to be received.

17. Does it remain the general view that no charges should be levied for a licence?

It would be unfair to make a charge for licences to charitable organisations. However, professional and commercial fund raising organisations and those companies which collect household goods to sell on should have to pay for licences.

The Professional Fundraising Regulatory Association (PFRA) has argued that to make a charge for licences would be a 'stealth tax' on charities. This Council believes that the professional fund raising organisations who collect direct debit commitments on behalf of charities already 'tax' charities by charging them a flat rate fee for each new donor signed up.

3.5 Section 2 – Local authority operation of the new scheme

18. How should philanthropic and benevolent best be defined (for example, by analogy with local authority rating decisions)?

A sensible definition would be an organisation which has concern for and promotes the welfare, education and general well being of mankind and animals, and which does not operate primarily for the purposes of private gain.

19. Are collections where there is a significant element of private benefit (for example, sponsorship for challenge events) philanthropic or benevolent.

There is an element of benefit for the charity, but not enough for the activity to be considered philanthropic or benevolent.

20. What factors should local authorities consider when assessing the capacity of a local area to accommodate collecting activity?

Mainly the demographic features of the area; including the size and age of the local population, housing density and number and nature of town centres and residential areas.

21. What factors should local authorities take into account when allocating collection slots (for example, the quality of different sites)?

The presence of supermarkets or other 'focal point' shops in an area, and the total number of shops. For example, a small shopping parade in a rural village or a residential area with a high number of sheltered housing properties would be inappropriate for allocating to direct debit collectors.

The nature of the shops in question. For example, it might be considered unwise to allocate an animal rights group a pitch outside the local butchers, or collectors on behalf of the Cancer Research Campaign outside the charity shop of another Cancer related charity.

It would be inappropriate, as it is now, for different charities to collect at the same time or in conjunction with an event which has been organised by another organisation which has a charitable element. For example, where there is an annual local gala or Fair taking place which allows participants to fund raise, it would not be sensible for a local authority to licence another collection which might clash with it.

22. Are the checks on eligibility suggested the right ones?

There is a list of 9 suggested checks which would be made to test the eligibility of the applicant. These are roughly along the lines of what Officers do at the moment, although this Council also has a 'street collections criteria' which has proved effective in reducing the number of unauthorised collections taking place in the borough. Some of these criteria have been incorporated in the proposals by the Home Office as an example of good practice.

In addition to the list of suggested checks, it is considered appropriate to add a question to the applicant regarding whether he or she has been refused licences in the past, and if so to give details.

23. How might liaison arrangements between local authorities, the police and the Charity Commission be improved?

A number of local authorities provide their local police with a list of licences which they have issued so that the Police are aware of the authorised collections taking place. This could be made a requirement in the future to strengthen links between the two bodies. In addition, where there is CCTV in operation, local authorities could, subject to proper consultation and resources being made available, also inform and involve them in monitoring collecting activity.

A number of Counties have licensing forums. Surrey for example has a very good team consisting of representatives from all the Surrey local authorities which also includes Customs and Excise, the police and the Charity Commission. Such forums could be made obligatory in the future with formal links to each other for a nationwide network.

24. What factors should local authorities take into account when assessing whether a collection is likely to be/is a public nuisance?

The frequency of collections taking place, the number of collectors involved and the nature of the collection itself.

- 25. Should all collection organisers be required to submit estimates before and/or returns after the collection detailing the costs of and proceeds from an activity?**

It would be an unnecessary extra layer of administration to require an estimate of proceeds beforehand. However, in order to ensure accountability and for local authorities to monitor organisations adequately, the requirement to submit a returns form after the collection has taken place should remain.

- 26. Should collection organisers who are employees, trustees or regular volunteers for a registered charity be exempt from the requirement to submit returns on their collecting activity?**

No, all organisations should be treated in the same way to promote transparency and equity.

- 27. Is the information which it is proposed organisers should submit sufficiently comprehensive?**

It is proposed that organisers of collections would provide more information than they do currently. In addition, they will be required to give information about the nature of the collection, agreement for checks to be made on their eligibility, an assurance about the proper conduct of the collection and to make contact with all local authorities in whose areas they wish to collect.

The list is fully comprehensive and should ensure that collections are organised, checked and conducted properly. The lead authorities, whoever, they might be will need to be sufficiently resourced in order to implement these requirements in a robust manner.

With regard to the failure to comply with the conditions of the scheme, it is suggested that an organisation or individual collector should not have any further applications considered until a year had elapsed. This Council believes that this should be extended to three years in order to deter bogus collectors and encourage others to act responsibly.

3.6 Section 3 – The Requirements placed on the organisers of collections

- 28. This paper proposes that the collection organiser and another responsible person or two other responsible people should be present at the opening of collection boxes? How should 'another responsible person' be defined in this context?**

The paper suggests that a responsible person be defined as one who is 'not connected with the cause on whose behalf funds are being raised'. This seems to be a reasonable definition. Currently for small local collections it is often the bank manager where the funds are being paid into who performs this role. Ideally, there should be two responsible people present, although that might be difficult to enforce.

- 29. Collection organisers should have basic safeguards in place to secure the proceeds of collections? Are other safeguards, in addition to those suggested needed?**

The basic safeguards are largely in line with the current system and are welcomed.

With regard to the wearing of badges, an organisation should also be required to obtain uniquely designed local authority specific badges from the local authority in whose area they are collecting. It is becoming increasingly accepted that such badges are an immediate indication to the public that a collection has been authorised.

- 30. The organisers of public collections might require all their collectors to sign an undertaking that they do not have a relevant unspent conviction. Is this requirement sufficient to ensure that collectors are 'fit and proper'?**

Unless a check is made that the information is correct the requirement is not adequate.

- 31. Should the minimum age of street and house to house collectors be set at 14 (or lower), provided that the collectors up to the age of 16 are accompanied by an adult or should the minimum age for all collectors be set at 16 (or higher)?**

There is a difficulty here in maintaining a balance between encouraging 'junior citizens' to take part in community activities and ensuring their personal safety. It would be very unwise to allow children to collect from house to house unaccompanied unless they were part of a bigger group including adults, as carol singers organised by the local churches do.

The minimum age for public collections should be set at 16. Those aged between 16 and 18 should be accompanied by an adult if collecting from house to house.

- 32. Are the record keeping requirements suggested sufficient/reasonable?**

The suggested requirements are reasonable and should not cause any difficulty for legitimate organisations to comply with.

- 33. Should local authorities be able to suspend licences while they investigate any concerns about collecting activity?**

Yes, but only in consultation with the Charity Commission so that their guidance may be sought, and a local authority is not acting in isolation.

- 34. If you have other comments to make in response to the consultation please use this space.**

Many local authorities object in principle to the concept of face to face fundraising where people are invited to give their bank details to a collector on the street or their doorstep. That collector is often paid on a commission basis, and the charity pays a flat rate or other fee to the fundraising company for each new donor signed up. Local authorities should be able to prevent this type of collection taking place if they can demonstrate sound reasons for doing so.

There is some credence in maintaining the system of the Home Office Exemption Orders for house to house collections as the present system seems to work fairly well in most cases. However, this Council would contest that Exemption Orders extend to the activities of a third party.

3.7 Partial Regulatory Impact Assessment

- 3.8 Government departments are now required to produce a risk assessment to accompany new proposals and consultation papers. Accordingly, the Home Office has drawn up an assessment based upon the main risk of how much public charitable collections raise each year and the specific risk of bogus street collections. They have addressed issues of cost in terms of time and monetary considerations based upon three options for the implementation of the new scheme. These costs have been applied to both charitable and other organisations as well as local authorities.

- 3.9 The three options are;

Option 1: Do nothing

Option 2: Get the sector to impose a voluntary code of practice/self regulation

Option 3: Local authorities should licence all public collections under a new integrated licensing system

- 3.10 The Home Office has based its proposals on Option 3, which most parties have agreed is the most sensible way forward. Option 3 builds on existing provision, and it is hoped that this will

result in a more simplified regime which will be easier to understand, implement and work within.

- 3.11 As stated in the answer to question 16 in paragraph 3.4, it is difficult for local authorities of differing sizes and dealing with a variety of responsibilities to quantify the true costs of the new scheme.
- 3.12 Officers recommend that a general response, as set out below in paras 3.13 – 3.17, be made to all the points raised in the Partial Regulatory Impact Assessment, as each area is relatively small and some questions cannot accurately be answered or have not been specifically addressed to local authorities but to the various fundraising organisations.
- 3.13 *One system for all will hopefully remove the inconsistencies between local authorities in implementation of the regime. One set of rules will benefit all parties. However, a number of authorities will argue vigorously for their own local conventions regarding 'local' collections having precedence over national organisations and a significant number of local authorities having an aversion to face to face fundraising.*
- 3.14 *The incidence of bogus street collection activity varies between local authority areas. In Runnymede, the figure is relatively low. In the past, on average, 10 occurrences were reported per year. These mainly occurred at Supermarkets which currently are a 'grey area' in terms of legislative cover. Since the introduction of greater liaison between the Council and local supermarkets the reported figure has fallen to approximately 5 per year.*
- 3.15 *It is questioned whether licences should be allowed to run for a year to eighteen months. This Council considers that the licence period should be considerably shorter.*
- 3.16 *As already stated it is difficult for local authorities to quantify the true costs of the new scheme, both in terms of administration and/or projected savings and additional costs. Without more details of how the 'lead authority' will be defined and implemented the costs thereto cannot be commented upon. The offences and related penalties would have to be revisited once the lead authority concept had been resolved.*
- 3.17 *One of the stated aims of the proposals is to 'increase public trust and confidence in public charitable collections'. In order for this to be achieved it would be inappropriate for an increased emphasis being placed on self regulation and a new voluntary code of practice. The onus for responsible fundraising activity should be placed on the fundraising bodies, adhering to a unified system administered by the local authorities and enforced through statutory regulations.*

4. Council Policy

- 4.1 Under the new local authority licensing scheme public charitable collections will no longer be divided into street and house to house collections. There will be one licence for all types of collection, including what is known as 'face to face' fund-raising where direct debit commitments are solicited. This Council's Street Collections Criteria will need to be reviewed and current regulations adopted by this Council with regard to house to house and street collections will no longer be applicable.

5. Resource Implications

- 5.1 It is likely that under the new regime, Officers will be dealing with more applications for public charitable collections. There will be greater liaison with the Police, Charity Commission and other local authorities and greater contact with a larger number of fund-raising organisations and registered charities.
- 5.2 Currently, no charge is made for issuing street or house to house collections permits. Depending on the responses received by the Home Office, this may change.
- 5.3 If this authority were chosen to be a 'lead authority' it is likely that this would have a direct and substantial effect on the workload of Officers.

OFFICERS' RECOMMENDATION that –

- i) the responses set out in the report together with any comments or suggestions made by this Committee be forwarded to the Home Office as this Council's formal response to the consultation paper 'Public Collections for Charitable, Philanthropic and Benevolent Purposes'; and**
- ii) the Committee indicates whether they wish this Council's comments to be prefaced by a request to the Home Office for non-disclosure.**

(TO RESOLVE)

Background Papers

Home Office Consultation Paper "Public Collections for Charitable, Philanthropic and Benevolent Purposes".

9. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing items in private, it is the

OFFICERS' RECOMMENDATION that -

the press and public be excluded from the meeting during discussion of the following report under Section 100A(4) of the Local Government Act 1972 on the grounds that the report in question would be likely to involve disclosure of exempt information of the description specified in the appropriate paragraphs of Part 1 Schedule 12A of the Act.

(TO RESOLVE)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading).

b) Confidential Information

(No reports to be considered under this heading)