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<b>DECISION - MAKER:</b>	<b>LICENSING COMMITTEE</b>
<b>DATE OF DECISION:</b>	<b>2<sup>ND</sup> FEBRUARY 2006</b>
<b>SUBJECT</b>	<b>STREET COLLECTIONS</b>
<b>REPORT OF:</b>	<b>SOLICITOR TO THE COUNCIL</b>
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**A. RECOMMENDATIONS**

The Committee is requested to consider and determine future policy in respect of street collections, and to consider a request from the Royal British Legion Poppy Appeal for additional opportunities to conduct street collections in November 2006.

**B. REASONS FOR REPORT RECOMMENDATIONS**

The Chair will give the Committee's reasons for its decision after the Committee has considered the report and relevant matters raised at the meeting

**C. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

None.

**D. WARDS /COMMUNITIES AFFECTED:**

Potentially all wards but primarily Bargate

**SUMMARY**

1. The existing policy on charitable collections has been in place for a number of years.
2. The Committee is requested to consider and determine future policy on street collections.

**BACKGROUND & REPORT DETAILS**

3. The City Council has a duty under the Police, Factories etc (Miscellaneous Provisions) Act 1916 to regulate the conduct of collections of money or sales of articles for the benefit of charitable or other purposes, but not in the course of trade, in the streets and public places in the city.
4. This licensing power does not affect persons seeking direct debit mandates on behalf of charities. It is understood that this issue is addressed in the Charities Bill currently before Parliament, which if promulgated will replace the existing law on both street collections and house to house collections in due course.
5. Under the current legislation, the City Council has discretion to formulate its own policy on the granting of applications for street collection permits, subject to the legislation and the street collection regulations last made by the Council with effect from 17<sup>th</sup> March 1981.
6. The City Council has little real discretion over the content of the regulations, which must adhere to a recommended model in order to obtain the necessary Home Office consent. A copy of the regulations is attached as appendix 1.
7. From such records as are available, it appears that the Council has had policy with respect to street collections since before 1974, which has been reaffirmed on a number of occasions since that time. The main purpose of the policy is to allow each organisation wishing to conduct a collection an equal chance of collecting in the most popular area, the city centre, by restricting each organisation to one collection per year in the City Centre.
8. The current policy on the grant of street collection permits is as follows:

- Each organisation will be restricted to one city centre collection per year (including, but not exclusively, Above Bar Pedestrian Precinct, the Guildhall Square or East Bargate). Permits are only granted for the exclusive use on one organisation at a time in any one area, and are allocated on a first come, first served basis..
  - City Centre collections on Saturdays in December will be restricted to half a day per Organisation
  - In exceptional circumstances, such as an emergency appeal, consideration may be given to the grant of additional permits.
9. A plan, approved by the Committee's predecessors, showing the area considered to be the "city centre" for the purposes of collections will be available at the Committee's meeting, together with copies of the application form.
  10. The grant of street collection permits is delegated to the Solicitor to the Council, and in considering such applications, officers require that each organisation has made the required return of income and expenditure in respect of previous collections before a new permit is issued. Such returns are required to be made within 28 days of the collection.
  11. It has become apparent that the policy is in need of review following a late request made by the Royal British Legion Poppy Appeal for additional collections in November 2005, which, under the existing policy, was not possible. A Licensing (Urgent Business) Sub-Committee considered this request on 7<sup>th</sup> November 2005, and resolved to permit collections by that organisation throughout the city on 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 13<sup>th</sup> November 2005, and in the city centre on 11<sup>th</sup> November 2005 in addition to the permits already granted for 11<sup>th</sup> November 2005 in all of the city except the centre and throughout the city on 12<sup>th</sup> November 2005.
  12. A request has now been received from the Royal British Legion Poppy Appeal for a permit over an eight day period between Saturday 5<sup>th</sup> to Saturday 11<sup>th</sup> November 2006. At the date of writing this report, no return for the November 2005 collections had been received from the RBL Poppy Appeal.

### **POLICY FRAMEWORK IMPLICATIONS**

13. The decision to determine the application in the manner set out in this report is not contrary to the Council's policy framework. The administration and determination of street collection permits is, as a matter of law, a non-executive matter delegated to the Licensing Committee.

### **LEGAL IMPLICATIONS**

14. The Police, Factories etc (Miscellaneous Provisions) Act 1916 does not specifically fetter the discretion of the committee in granting street collection permits or setting policy, subject to a duty to act reasonably.
15. *Crime and Disorder Act 1998*  
Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

16. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's human rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's' rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

**FINANCIAL IMPLICATIONS**

17. The legislation does not provide for fees to be charged for the grant of street collection permits, thus the whole cost of the administration of this licensing function must be borne by the portfolio.

**CONSULTATION AND CONCLUSIONS**

18. Members may wish to consider the following points in considering a revised street collection policy:
- Each organisation will be restricted to one city centre collection per year (including, but not exclusively, Above Bar, Above Bar Pedestrian Precinct, High Street, the Bargate and adjoining streets and open places)
  - In exceptional circumstances, such as an emergency appeal, consideration may be given to the grant of additional permits
  - Exceptionally, to permit the Royal British Legion Poppy Appeal to collect in any part of the city, on the Monday to the Saturday immediately prior to Remembrance Sunday.
  - The city council reserves the right to conduct a criminal records check on the application for a permit to determine their suitability to conduct a street collection.
  - No further permits will be granted to an organisation until a satisfactory return for every previous street collection by that organisation has been received by the City Council.
19. This would have the effect of allocating collection dates on the most equitable basis, ordinarily limiting collections in the city centre by each organisation to one per year, and preventing conflicts between organisations if they were to collect simultaneously.

## STREET COLLECTION REGULATIONS

In pursuance of Section 5 of the Police, Factories etc., (Miscellaneous Provisions) Act, 1916, as amended by Section 251 and Schedule 29 of the Local Government Act, 1971, Southampton City 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 the City of Southampton 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 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;
  - “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 City of Southampton unless a promoter shall have obtained from the Council 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 Council 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 Council may, in granting a permit, limit the collection to such 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.
  - (2) Any persons authorised under sub-paragraph (1) above all shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Council 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 Council 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. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting -
  - a collector shall remain stationary; and
  - a collector or two collectors together shall not be nearer to another collection than 25 metres.

Provided that the Council 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.

12.
  - (1) Every collector shall carry a collecting box.
  - (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 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 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, or in respect of, services connected therewith, except such payments as may have been approved by the Council.
16.
  - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Council:
    - (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 either a qualified accountant or an independent responsible person acceptable to the Council;
    - (b) a list of the collectors;
    - (c) a list of the amounts contained in each collecting box:and shall, if required by the Council, 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 that person and after a certificate has been given under paragraph (1) (a) above, publish in such newspaper or newspapers as the Council 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 the expenses and payments in connection with such collection.
  - (3) The Council 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 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 of Scotland;
    - the Association of Certified Accountants;
    - the Institute of Chartered Accountants in Ireland.

17. These regulations shall not apply:-  
in respect of a collection taken at a meeting in the open air; or  
to the selling of articles in any street or public place when the articles  
are sold in the ordinary course of trade.

**STATEMENT OF INCOME AND EXPENDITURE**

Name and address of the person to whom the permit was granted:

Name of the Charity or Fund which is to benefit:

Date of Collection:

Show nil entries

INCOME	AMOUNT	EXPENDITURE	AMOUNT
From Collection (as per list of collectors and amounts attached hereto)		Printing and Stationery	
		Postage	
		Advertising	
		Street Collection boxes	
		Badges or other adornments	
Interest on proceeds		Other items	
Other items:		.....	
.....		.....	
.....		.....	
.....		Disposal of balance (insert particulars)	
<b>TOTAL</b>		<b>TOTAL</b>	

I certify that to the best of my knowledge and belief the above is a true account of the proceeds, expenses and application of the proceeds of the collection.

(Signed) \_\_\_\_\_ (Date) \_\_\_\_\_  
Person to whom the permit was granted

I certify that I have obtained all the information and explanations required by me and that the above is in my opinion, a true account of the proceeds expenses and application of the proceeds of the collection.

(Signed) \_\_\_\_\_ (Date) \_\_\_\_\_  
Qualified Accountant or independent responsible person

Appendix 1  
Documents in Members Rooms

Street collection regulations  
None

## **BACKGROUND PAPERS**

### **Title of Background Paper**

### **Relevant Paragraph of AIP Rules allowing document to be Exempt/ Confidential (if applicable)**

Documents available for inspection at:

Licensing Office, Legal & Democratic Services,  
Southbrook Rise, 4 - 8 Millbrook Road East.

