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Policies for the regulation of Street Collections and House to House Charitable Collections

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1 Introduction

Elmbridge Borough Council regulates charitable collections in the street and also house to house charitable collections. Some matters relating to these collections are at the discretion of the Council and it is important that the Council has a policy regarding these matters.

This policy is designed to ensure that:

- a) applications are made in a timely way, neither too early nor too late,
- b) collecting organisations each get a fair opportunity to make collections, and
- c) members of the public are not subject to excessive charitable requests

2 General Policy Matters

2.1 Sharing of Information

The Council will share with other enforcement bodies information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Where applicable, it will be under the relevant Information Sharing Protocol.

2.2 Policy Application

This document contains the policies adopted by Elmbridge Borough Council for the grant of permits and licences. These policies will normally be applied in every case but where there are exceptional or unusual circumstances then these policies and conditions may be departed from. Any departure from these policies will only be as approved by the Head of Environmental Health & Licensing.

2.3 Enforcement

Failure to comply with legislative requirements is an offence. In determining what enforcement action to pursue in respect of offences, regard will be had to the individual circumstances, the Council's policies with regard to enforcement and other national guidance, such as the Crown Prosecutor's Code of Practice.

3 Street Collections

3.1 Introduction

The Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act 1972, empowers local authorities to regulate collections made in the street. It should be noted that a collection means a collection or a sale of articles for the benefit of charitable or other purposes.

3.2 Policy

All collections shall be carried out in accordance with the regulations made by the Council and the following policies shall be in addition to those regulations.

- 1) Collections may not be carried out in any public street or public place, apart from at an open air meeting, unless the promoter has obtained a permit from the Council. This includes collections as part of processions. This does not prevent collections taking place on land which is not a public place but some land that is privately owned to which the public generally have access will constitute a public place.
- 2) All applications shall be made at least one calendar month prior to the proposed start date of the collection. Applications received after this time will not generally be considered unless there are very exceptional reasons for doing so. Such an example would be where a major charitable need has suddenly arisen, which could not have been foreseen, and which requires most urgent assistance e.g. tsunami relief aid.
- 3) Applications for permits or waivers will not be considered more than twelve months in advance of the proposed date of the start date of the collection.
- 4) Only one charity shall be allowed to collect within any one town centre on any one day. Applications may be for several town centres for the same period. The town centres in which collections may be permitted shall be:

Molesey. Which shall constitute the wards of Molesey North, Molesey South, Molesey East .

Walton and Hersham. Which shall constitute the wards of Walton North, Walton Ambleside, Hersham North, Hersham South, Walton South and Walton Central.

Weybridge. Which shall constitute the wards of Weybridge North, Otlands Park, Weybridge South, and St Georges Hill.

Cobham. Which shall constitute the wards of Cobham and Downside and Cobham Fairmile.

Oxshott. Which shall constitute the ward of Oxshott and Stoke D'Abernon

Esher. Which shall constitute the ward of Esher

Claygate. Which shall constitute the ward of Claygate

Weston Green and the Dittons. Which shall constitute the wards of Hinchley Wood, Long Ditton, Weston Green, and Thames Ditton.

Where a charity wishes to collect in a particular location in a town centre, then other charities may be permitted to collect in the rest of that town centre.

- 5) Permits to collect shall only be granted for periods not exceeding seven consecutive days with a period of seven clear days between permits.
- 6) Permits will not be granted to any organisation which
 - a. has any direct political allegiance or affiliation or
 - b. is involved in, or advocates
 - i. any form of direct action which intimidates or threatens any person, or group or person, or
 - ii. which involves or encourages any illegal activity.
- 7) Where applications are received from more than one organisation for the same day, or for periods which overlap, then a permit will only be granted to one organisation.

The organisation which shall be granted a permit shall be determined on a first come first served basis, although preference will be given to local charities or charities with a local connection where applications have been made but not yet granted for the same or an overlapping period. Exceptions to this shall be for the following national charities whose collections are linked to specific dates in the year to whom preference shall be given: Children in Need, Royal British Legion, Round Tables, Lions and Rotary Clubs.

- 8) At the discretion of the Head of Environmental Health & Licensing, permits may be limited to such streets or public places or such parts thereof as is considered appropriate.
- 9) Applications to collect to raise funds for the purpose of financing personal expeditions shall not be permitted, even where a proportion of the funds raised are donated to charity.

3.3 Applications and Fees

Only applications which have been submitted on the Council's designated application form will be considered. There is no fee for making an application for a permit and there is no fee payable on being granted a permit.

3.4 Waivers and consents

The Council's Regulations makes allowance for the Regulations to be departed from in some case under specified circumstances. Any request to depart from the Regulations shall be made as detailed above.

3.5 Regulations

Applicants for permits and those who have been granted a permit shall comply with the Council's Regulations which are included at Appendix One. Any person who acts in contravention of these Regulations is guilty of an offence which on conviction is punishable by a fine not exceeding Level One (currently £200).

3.6 Appeals

There is no formal right of appeal against any decision made by the Council to grant or refuse an application for a street collection permit. However, in the interests of fairness if an organisation wishes to lodge a request for a decision to be reviewed then the matter should be put in writing to the Head of Environmental Health & Licensing, who will review the decision that has been taken.

4 House to House Collections

4.1 Introduction

Public charitable collections conducted on a house-to-house basis are currently regulated by the House to House Collections Act 1939 and the House to House Collections Regulations 1947. An extract of these Regulations is included at Appendix Two. No collection for a charitable purpose may be made unless the provisions of the Act and the Regulations are complied with, otherwise a criminal offence is committed. If any person or organisation promotes a charitable collection then they must have a licence to do so. Anyone acting as a collector where there is not a licensed promoter also commits a criminal

offence. Offences are punishable by penalties ranging from a minimum fine of £200 up to six months imprisonment and a fine of up to £1,000.

The Minister for the Cabinet Office is responsible for a national exemption order scheme for house-to-house collections under the current law. National exemption orders are generally available to organisations which have obtained house to house collection licences in at least 70-100 local authority licensing areas for the two preceding years. There are currently (as of 2010) 43 national exemption order holders.

Special provisions relate to collections which are local to an area and which are to take place over a short period. In such circumstances the Police are able to issue a local exemption certificate as an alternative to the Council issuing a licence.

It should be noted that selling goods from door to door on the basis that the proceeds will go to charity constitutes a door to door collection.

It should be noted that the Council has no power to attach conditions to a licence, nor to limit the number of house to house collections taking place at any one time nor to restrict them to a particular locality.

4.2 Policy

1) Amount devoted to charity.

The grounds of refusal by the Council, which are detailed in the Act, of an application for a licence include where the total amount likely to be applied for charitable purposes as a result of the collection is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received). For the purposes of assessing this, the Council will not generally grant a licence unless the total amount applied for charitable purposes is a) likely to be equal to or exceed 75% of the total value of money likely to be received or b) where goods are collected or sold 75% of the profit derived. In judging this, evidence of the amount devoted to charitable purposes as a result of previous collections, both within or outside the Borough, will be taken into account. Where information becomes available after a licence has been granted, then the licence shall normally be revoked if these percentage requirements will not be met.

2) Fit and proper person.

The grounds of refusal include where the applicant is not a fit and proper person by virtue of having been convicted of certain offences. The policy of the Council shall be that generally anyone convicted of one of the specified offences shall not be granted a licence or shall have their licence revoked.

3) Exercising due diligence.

Where the applicant for or the holder of a licence fails to exercise due diligence in ensuring that collectors authorised by him were or are fit and proper persons, then the Council may refuse to grant the licence or may revoke the licence. It is the policy of this Council that, where the Council is satisfied that due care or diligence has not been exercised, a licence will be refused or revoked.

4) Additional information.

Where the applicant or the holder of a licence refuses or neglects to provide the Council with such information as the Council reasonably requires, then the Council will normally refuse the application or will revoke an existing licence.

5) Late applications.

Applications must be made no later than the first day of the month preceding the month in which it is proposed to carry out the collection. This period is specified in the legislation. Late applications may be considered but only where there are special reasons for doing so. The policy of this Council is that late applications will not generally be considered unless there are very exceptional reasons for doing so. Such an example would be where a major charitable need has suddenly arisen, which could not have been foreseen, and which requires most urgent assistance e.g. Tsunami Relief Aid.

4.3 Applications and Fees

There is no fee for applying for a licence, nor is there any fee for the grant of a licence. Once a licence has been granted the collection promoter must ensure that their collectors are issued with prescribed certificates of authority and badges, blank copies of which must be obtained from HM Stationery Office. It is an offence for any collector to collect without being in possession of the required signed authority and badge.

Following the collection, a form of statement must be returned to the Council within one month, giving an account of the monies raised.

Please note that collections are carried out by regional or national charitable organisations under the authority of a Cabinet Office exemption.

4.4 Appeals

There is a right of appeal to the Minister for the Cabinet Office against the decision of the Council to refuse an organisation a licence to hold a house to house collection or to revoke such a licence.

Appeals should be made in writing to:
Office of the Civil Society,
2nd Floor, Admiralty Arch, South Side
The Mall, London SW1A 2WH

An appeal must be lodged within 14 days of the date on which notice of refusal or revocation was given to the applicant for, or the holder of, a licence.

Appendix One – Street Collections Regulations



Elmbridge
Borough Council

... bridging the communities ...

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Regulations made by Elmbridge Borough Council regarding Street Collections

In exercise of the powers conferred upon it by Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by Section 251 of the Local Government Act 1972 and Schedule 29 to that Act, Elmbridge Borough Council has made the following Regulations with respect to the places where and the collections under which persons may be permitted in any street or public place within the Borough of Elmbridge 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 collector;
 "The Licensing Authority" means the Elmbridge Borough Council;
 "permit" means a permit for a collection;
 "contributor" means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
 "collecting box" means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the Borough of Elmbridge unless a promoter shall have obtained from Elmbridge Borough 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 Elmbridge Borough Council may reduce the period of one month if satisfied 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. Elmbridge Borough 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 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 Elmbridge Borough Council or any police constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway; provided that Elmbridge Borough 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 any person.
9. No collector shall importune any person to the annoyance of such person.
10. No collector shall, without the consent of Elmbridge Borough Council, be accompanied by an animal other than a Guide Dog.
11. While collecting:
(a) a collector shall remain stationary; and
(b) a collector or two collectors together shall not be nearer to another collector than 25 metres;
Provided that Elmbridge Borough 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.
12. 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.
13. (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.
14. 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.
15. (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.
16. (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 Elmbridge Borough Council.
17. (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to Elmbridge Borough 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 promoter and a qualified accountant;
 - (b) a list of the collectors;
 - (c) a list of the amounts contained in each collecting box; and shall, if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.
- (2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph (1)(a) above, publish in such newspaper or newspapers as Elmbridge Borough 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 or sale, the amount collected and the amount of the expenses and payments incurred in connection with such collection.
- (3) Elmbridge Borough 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 Institute of Certified Accountants;
The Institute of Chartered Accountants in Ireland.
18. 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.
19. Any person who acts in contravention of any of the foregoing regulations shall be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale, (currently £200 – two hundred pounds).

Appendix Two

Extract from the House-to-House Collection Regulations 1947

The numbered paragraphs relate to the numbered paragraphs in the original regulations.

Responsibility of promoters as respects collectors

5. Every promoter of a collection shall exercise all due diligence -
- (a) to secure that person authorised to act as collectors for the purposes of the collection are fit and proper persons: and
 - (b) to secure compliance on the part of persons so authorised with the provisions of these regulations.

Certificates of authority, badges, collecting boxes and receipt boxes

6. (1) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person -
- (a) a prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
 - (b) a prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection; and
 - (c) if money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of the receipt.
- (2) Every promoter of a collection shall exercise all due diligence to secure -
- (a) that no prescribed certificate of authority, prescribed badge, collection box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
 - (b) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
- (3) In case of a collection in respect of which a licence has been granted -

- (a) every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationery Office, and every prescribed badge shall be so obtained; and
- (b) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the chief officer of police for area in respect of which the licence was granted.

Duties of collectors in relation to certificates and badges

7. Every collector shall -

- (a) sign his name on the prescribed certificate of authority issued to him and produce it on demand of any police constable or of any occupant of a house visited by him for the purpose of collection;
- (b) sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
- (c) keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.

Age Limits

8. No person ... under the age of sixteen years shall act or be authorised to act as a collector of money.

Importuning

9. 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.

Collecting of Money

- 10. (1) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitting the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.
- (2) Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person forthwith and in the presence of such a person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil of

duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the persons from whom he received the contribution.

Duty of collectors to return boxes and books

11. Every collector, to whom a collecting box or receipt book has been issued shall -

- (a) when the collecting box is full or the receipt book is exhausted, or
- (b) upon the demand of a promoter of the collection, or
- (c) when he does not desire to act as a collector, or
- (d) upon the completion of the collection,

return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

Examination of boxes and books

12. (1) Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.
- (2) Where a collecting box is delivered to a bank unopened, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.
- (3) As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.
- (4) Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

Disposal of disused certificates of authority, etc

17. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose.