

**DRAFT POLICY DOCUMENT REFERRED
TO COUNCIL BY LICENSING &
APPEALS COMMITTEE APRIL 2021**

LICENSING POLICY

HOUSE TO HOUSE AND STREET COLLECTIONS (CHARITY COLLECTIONS)

This Policy will take effect from **1st AUGUST 2021** for a maximum period of 3 years, and will be kept under review. If you wish to make any comments during this period please contact the Licensing Manager in writing by:

Email : licensing@derbyshiredales.gov.uk

Post : The Licensing Manager
Regulatory Services
Derbyshire Dales District Council
Town Hall
Matlock
Derbyshire
DE4 3NN

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Introduction

- 1.1 Derbyshire Dales District 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.
- 1.2 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 an excessive number of requests for donations.

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 data protection legislation. 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 Derbyshire Dales District 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 Regulatory Services.

2.3 Enforcement

Failure to comply with legislative requirements is an offence. In determining what enforcement action to pursue in respect of offences, the individual circumstances will be taken into consideration, together with the Council's enforcement policies 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.

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. The following policies are 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 exceptional circumstances. For example: where a major charitable need has suddenly arisen, which could not have been foreseen, and which requires urgent assistance e.g. Children in Need Rickshaw Challenge.
- 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 made for several town centres for the same period – but a separate application must be completed for each one.
- 5) The most popular areas in which collections are usually applied for are Bakewell, Matlock, Ashbourne, Wirksworth, Tideswell and Matlock Bath. Other towns and villages may be allowed.
- 6) Permits to collect shall only be granted for periods not exceeding seven consecutive days with a period of seven clear days between permits.
- 7) 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.

- 8) 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.

However, 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.

- 9) Exceptions to this rule 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 Poppy Appeal, Round Tables, Lions and Rotary Clubs. In addition local events that will receive preference include Shrovetide Committee, Matlock Bath Raft Event and various village carnivals.
- 10) Authority is delegated to the Head of Regulatory Services, to limit permits to such streets or public places or such parts thereof as is considered appropriate.
- 11) 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

The current legislation does not make any provision for any fees to be payable for a permit.

3.4 Waivers and consents

The Council's Regulations make allowances 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 existing permit-holders shall comply with the Council's Regulations which are included at **Appendix 1**.

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 interest of fairness and transparency, 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 Regulatory Services, who will review the decision.

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.

Collections for a charitable purpose may not be made unless the provisions of the Act and the Regulations are complied with and a licence from the Council has been obtained; otherwise a criminal offence is being committed. Anyone acting as a collector where the promoter is not licensed, would also be committing a criminal offence. Offences are punishable by penalties ranging from a minimum fine up to six months imprisonment and a fine.

For penalties for offences see House to House Act 1939 – section 8
<https://www.legislation.gov.uk/ukpga/Geo6/2-3/44/section/8>

NB: See page 10 for current maximum fines for each Level on the Standard Scale.

4.2 Exemptions

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 47 national exemption order holders. (List updated July 2019).

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

Selling goods door-to-door on the basis that the proceeds will go to charity constitutes a house to house collection. 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.

4.3 Policy

1) Amount devoted to charity

The grounds for refusal of an application for a licence by the Council, which are detailed in the Act, 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 80% of the total value of money likely to be received or b) where goods are collected or sold 80% 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 District, will be taken into account.

Where information becomes available after a licence has been granted, that the percentage requirements have not been met, then the licence shall normally be revoked.

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 Council's Policy shall be that generally anyone convicted of one of the specified offences shall not be granted a licence or shall have their licence revoked.

For penalties for offences see House to House Act 1939 – section 8

<https://www.legislation.gov.uk/ukpga/Geo6/2-3/44/section/8>

NB: See page 10 for current maximum fines for each Level on the Standard Scale.

3) Exercising due diligence

Where the applicant for or licence-holder fails to exercise due diligence in ensuring that collectors authorised by him/her were or are fit and proper persons, then the Council may refuse to grant the licence or may revoke the existing licence.

The Council's Policy is 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 that the Council considers reasonable to require, then the Council will normally refuse the application or will revoke an existing licence.

5) Late applications

Applications must be made at least one month before 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 Council's Policy is that late applications will not generally be considered unless there are exceptional circumstances. An example of this would be where a national/international disaster that could not be foreseen, where emergency aid/relief is required eg. Tsunami Relief Aid.

4.4 Applications and Fees

The current legislation does not make any provision for any fees to be payable for 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 may 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 completed and submitted to the Council within one month of the collection. The Statement must include details of income and expenditure, and the amount donated to the charity or good cause.

Some collections are carried out by regional or national charitable organisations under the authority of a Cabinet Office Exemption, and do not need a licence from the Council, so will not be required to submit statements to the Council.

4.5 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.

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

STREET COLLECTIONS - REGULATIONS

1. No collection of money or sale of any article shall be made in any street or public place within the District of Derbyshire Dales unless the person, society, committee or other body of persons responsible for such collection or sale shall have obtained from the Derbyshire Dales District Council a permit for such collection or sale.
2. 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 or sale.

The licensing authority may reduce the period of one such month if satisfied that there are special reasons for so doing.
3. No collection or sale shall be made except upon the day and between the hours stated in the permit.
4. The licensing authority may in granting a permit limit a collection or sale to such streets or public places or such parts thereof as they think fit.
5. No person may assist or take part in any collection or sale without the written authority of the person, society, committee or other body of persons to whom a permit has been granted. Every person so authorised shall produce such written authority forthwith for inspection by a duly authorised officer of the licensing authority or any police officer on demand.
6. No collection or sale shall be made in any part of the carriageway of any street, which has a footway, provided that the licensing authority may, if it thinks fit, allow a collection or sale to take place on the said carriageway where such a collection or sale has been authorised to be held in connection with a procession.
7. No collection or sale shall be made in any street or public place to the obstruction or annoyance of any person in such a street or public place.
8. No collector or vendor shall importune any person to the annoyance of such persons.
9. Any person acting as a collector or vendor in a street or public place shall occupy a stationary position at some place on the footway. Not more than 2 persons shall act as collectors or vendors at the same place, and no person shall collect money or sell articles within 25 metres of the place where any other person is collecting or selling.

The licensing authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection or sale, which has been authorised to be held in connection with a procession.
10. No person under the age of 16 years shall act or be permitted to act as a collector or vendor.
11. Every collector or vendor shall carry and present to all contributors or purchasers for the reception of money contributions, a box or other receptacle securely closed and sealed in such a way as to prevent the same being opened without such seal being broken, and all money shall be immediately placed into such box or receptacle.

All such boxes or receptacles shall be numbered consecutively. Every collector or vendor shall deliver his boxes, other receptacles, with seals unbroken, to one of the persons responsible for the proper application of the money received.

12. A collector or vendor shall not carry or use any collecting box, receptacle or tray, which does not bear, displayed prominently thereon the name of the fund for which the collection or sale is being made, nor any box or the receptacle which is not duly numbered.
13. No payment or reward shall be made or given either directly or indirectly, to any other person connected with the promotion or conduct of a collection or sale for or in respect of services connected therewith, except such payments as may have been approved by the authority which granted the permit.
14. (1) Within one month after the date of any collection or sale, the person, society, committee or other body of persons responsible therefore shall forward to the Secretary and Solicitor for the information of the licensing authority a statement in the form set out in the Schedule to the Regulations, certified by the auditor of the society or by some independent responsible person, with vouchers showing in detail the amount received and the expenses incurred in connection with such collection or sale, and shall, if required by the licensing authority, satisfy them as to the due proper application of the proceeds of the collection or sale.

The society, committee or other body shall also, within the same period, at their own expense and after audit, publish in such newspapers as the licensing authority may direct, a short statement showing the name of the person, society, committee or other body of persons responsible for the collection or sale, the amount collected, the amount of expenses and the amount distributed to the charity or fund.

- (2) The licensing authority may, if satisfied there are special reasons for doing:-
 - (a) extend the period of one month referred to in Paragraph (1) above and
 - (b) agree to accept from the person, society, committee or other body of persons required to forward a statement to the appropriate officer under Paragraph (1) above, a statement which although not in the form set out in the Schedule to these Regulations is in a like or similar form, and where there has been agreement and an acceptance, Paragraph (1) above shall be deemed to have been complied with.
15. These regulations shall not apply:-
 - (i) in respect of a collection taken at a meeting in the open air;
 - (ii) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade and for the purpose of earning a livelihood and no representation is made by or on behalf of the seller that any part of the proceeds of sale will be devoted to any charitable purpose.
16. The maximum fine for breach of any of these regulations is £200, Level 1 under Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 as amended.

Maximum fines

A fine must not exceed the statutory limit. Where this is expressed in terms of a 'level', the maxima are:

Level 1	£200
Level 2	£500
Level 3	£1,000
Level 4	£2,500
Level 5	Unlimited

(This information is correct at 1 July 2021)