

**TO: LICENSING AND SAFETY COMMITTEE
10 OCTOBER 2013**

**HOUSE TO HOUSE COLLECTIONS
Chief Officer: Environment and Public Protection**

1 PURPOSE OF REPORT

- 1.1 This report is brought to the Committee following an item raised in matters rising at the meeting on 1 May 2013 when members were advised of a decision by the Cabinet Office to allow an appeal by a textile collection company upon the refusal of Cardiff City Council to issue a House to House Collection Licence.
- 1.2 The report further informs members on the grounds and reasons for the decision and makes recommendations on how this decision should influence the policy presently adopted by Bracknell Forest to assess the granting of such applications.

2 RECOMMENDATION(S)

2.1 That the Committee agrees:

- i) That the current requirement for 80% of the proceeds of the collection to go to the charity be retained**
- ii) That officers review the information on the Council's website to ensure that residents receive clear information on local options for the recycling of textiles and other goods to assist residents make informed choices.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 Like many other Councils in the country the decision of the Cabinet Office means that we have to reconsider our present practice. This is not considered to be a good decision when it comes to the interests of the contributing public as they would no longer be assured that the bulk of the revenue raised goes to the good cause they are supporting rather than the collecting organisation. The law, as submitted in paragraph 5.2 below, allows a Local Authority to make a decision on the amount to be used for a charitable purpose with an appeal mechanism to the Secretary of State. The decision by the Secretary of State is final in respect of the Cardiff applications, although a judicial review may have been considered.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could accept applications where the percentage of proceeds that go to charity match those within the cases mentioned.

5 SUPPORTING INFORMATION

- 5.1 The House to House Collections Act 1939 governs the licensing of collections for a charitable purpose. The Council is the licensing body and subject to certain provisions the Licensing Authority must issue a licence upon receipt of an application. Failure to have a licence when carrying out a collection is a criminal offence.
- 5.2 A Licensing Authority may refuse to grant a licence where, amongst other matters:

Unrestricted

- i) the total amount likely to be applied for charitable purposes as the result of the collection is inadequate in proportion to the value of the proceeds as per section 2(3)(a);
 - ii) remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person as person section 2(3)(b).
- 5.3 Where a Licensing Authority refuses to grant a licence they are required to give written notice to the applicant of the grounds. The applicant has a right of appeal to the Secretary of State and their decision shall be final.
- 5.4 In response to an appeal by Pen Y Bont Ltd to a decision by Cardiff City Council to refuse an application for a House to House collection the Cabinet Office upheld the appeal and instructed Cardiff City Council to issue a licence. This decision was also followed in a further appeal by Support Hollies Schools Ltd against a further decision by Cardiff City Council. It may have been possible for Cardiff City Council to seek a Judicial Review of the Secretary of State decision through an application to the High Court. Such applications are generally expensive in terms of legal costs. Cardiff City Council decided not to take such an action.
- 5.5 Pen Y Bont Ltd and Support Hollies School Ltd are both commercial textile collection companies who organise collections on behalf of charities. Plastic bags containing the details of a named charity are posted through residents' letter boxes and then collected a few days later by the collection company. These goods are then recycled in various ways and revenue generated. The charity receives a proportion of those proceeds. In the cases mentioned above the proportion of the proceeds donated to the charity on previous occasions was less than 9% and in one instance 6.4%.
- 5.6 The Cabinet Office has said that "having considered evidence from the commercial collectors, the charity and the local licensing authority, we did not regard the costs involved in carrying out these collections as unreasonable. Without these collections we would see thousands more tonnes of textiles going to landfill rather than being reused or recycled, and charities throughout England and Wales would be deprived of much needed income. If people want to maximise the amount that goes to a charity, an alternative would be to take their goods directly to their local charity shop."
- 5.7 Our current policy is to refuse applications which do not meet an 80% proceeds to a charitable cause criteria. Given the Cabinet Office decision we have already had other commercial textile companies asking the Council to reconsider decisions to refuse applications previous made. To refuse any new applications may lead to applicants considering an appeal to the Secretary of State on the grounds of this decision.
- 5.8 Textile products such as unused clothes are recyclable but according to a WRAP report in 2012 over 350,000 tonnes are sent to landfill each year and a further 80,000 tonnes are sent for incineration. In their view donating clothing for re-use or recycling could generate £140 million in revenue, thus giving recycled textiles a value of £400 per tonne. Given that the report also says that 540,000 tonnes are recycled this means this industry has an annual turnover of at least £216 million.
- 5.9 Figures available from our waste management staff indicate that each year around 1100 tonnes of recyclable textiles ends up going to landfill or incineration via the green bins at a cost of around £140 per tonne to the tax payer. It therefore is in our interests that every encouragement is given to residents to divert such unwanted

goods. We already capture around 220 tonnes a year at the recycling sites across the Borough and a further 100 tonnes is recovered at Longshot Lane. It is not possible to determine the quantity of textiles which are recycled through donations directly to charity shops or through doorstep collections but all clearly all have a role to play in keeping costs down and importantly helping the environment.

- 5.10 Doorstep collections probably play the lesser role in the current arrangements. An increase in commercial doorstep collections through a relaxation in the 80% rule could be seen as an opportunity for more such collections but it may also have the effect of displacing present clothes bank and charity shop donations which are vital sources of income for both local and national charities.
- 5.13 For our residents faced with making an informed decision as to choice it is proposed that we ensure that we use our website to best effect. Residents should be able to find out just how much of the value of the goods being collected is actually getting to the charity. The law governing House to House Collection licences still require the applicant to provide details of the percentage of total proceeds of the collection that will be given for charitable purposes. In addition it must provide details of the income from the collection and the money paid to a supporting charity. It is proposed that such information would be included within our pages whilst also detailing the various recycling options available locally.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The report sets out comprehensively what occurred in the Cardiff case. Any attempts to go against the Cardiff decision may entail the local authority in costly legal proceedings. It is noticeable that Cardiff was far from communicative when we sought information from them about the circumstances of the case and all we could obtain was a terse response. Although the decision impacts on all local authorities they were disinclined to be cooperative or share any background information or their reasons for not challenging the decision with us. From the information we have managed to obtain, the Cabinet Office appears to have been significantly influenced by the landfill costs and it should be noted that Cardiff and Swansea is the operational centre of many of the collection companies that organise these collections around the country. It may be that Cardiff has just spent too much time and energy on this issue and they took a commercial decision not to challenge the Cabinet Office decision. The current position is likely to eventually be resolved by judicial review involving one local authority or another as it is clearly an unsatisfactory situation to have arrived at. Notwithstanding the landfill costs the decision appears to fly in the face of the long held key principles and thinking relating to charities, charitable purposes and charitable collections

Borough Treasurer

- 6.2 There are no significant financial implications arising from the recommendation in this report.

Equalities Impact Assessment

- 6.3 There are no significant financial implications arising from the recommendation in this report.

Strategic Risk Management Issues

- 6.4 There are no significant financial implications arising from the recommendation in this report.

7 CONSULTATION

Principal Groups Consulted

- 7.1 Not applicable

Method of Consultation

- 7.2 Not applicable

Representations Received

- 7.3 Not applicable

Contact for further information

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