

CARLISLE CITY COUNCIL

Report to:- **THE CHAIRMAN AND MEMBERS OF THE REGULATORY PANEL**

Date of Meeting:- 21st January 2009

Agenda Item No:-

Public

Operational

Delegated Yes

Accompanying Comments and Statements

Required

Included

Cumbria Fire Service

No

No

Cumbria Constabulary

No

No

Environmental Services

No

No

Corporate Planning & Information Unit

No

No

Title:-

CRITERIA FOR STREET COLLECTION APPLICATIONS

Report of:-

LEGAL AND DEMOCRATIC SERVICES

Report reference:-

LDS 03/09

Summary:-

The report contains proposals that may be included in a criteria for Street Collection applications made to Carlisle City Council. The report was requested during a meeting held by the Regulatory Panel when considering street collection applications on Wednesday 17th December 2008.

Recommendation:-

To reach a decision from the recommendation set out in paragraph 5 of the report..

J A Messenger

Licensing Manager

Legal & Democratic Services

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:- Police Factories(Misc. Provisions) Act 1916, Carlisle City Council model regulations Feb 1974 and Charities Act 2008.

To the Chairman and Members of the Regulatory Panel 21st January 2009

PROPOSED CRITERIA FOR STREET COLLECTION APPLICATIONS

1. INTRODUCTION

The City Council each year receives applications to hold Street Collections from many varied charities and organisations, both national and local. On Wednesday 19th December 2008 the Regulatory Panel considered fifteen such applications. During the meeting it was requested by the Panel that a report be submitted to the next meeting giving details of a protocol to ensure that only recognised organisations/persons were granted permission for street collections within the Carlisle City Council area.

2. LEGISLATION

2.1 The main Act of Parliament relating to the licensing of street collections is the Police Factories etc (Miscellaneous Provisions) Act 1916.

Model Regulations were approved and adopted by this Council on 26th Feb.1974. The regulations refer to the collection of money or the selling of any articles for the benefit of charitable **or other purposes** in any street or public place within Carlisle City Council area.

These regulations are issued together with the street collection permit and a copy is attached to this report at **APPENDIX A**

2.2 The Charities Act 2006

This Act defines a charity and includes charitable purposes as being for the advancement of

- education
- religion-health or the saving of lives
- citizenship or community development
- the arts, culture, heritage or science
- amateur sport, human rights
- conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
- environmental protection or improvement
- animal welfare
- the relief of those in need by reason of youth, age, ill health, disability, disadvantage, financial hardship or other disadvantage
- any purposes recognised by virtue of section 1 of the recreational Charities Act 1958 (including for example local community centres and amateur sports clubs)
- any purposes that may be regarded as analogous to or within the spirit of any purposes which have been recognised under charity law

3 REGISTERED CHARITIES

Charities are only required to register with The Charity Commission if they have an income of over £5000.

Religious organisations and University based charities are only required to register if they have an income exceeding £100,000

Registered charities are not allowed to campaign to change the law. In effect they are only allowed to alleviate suffering, not to lobby politically for change to prevent it. Organisations such as Greenpeace Ltd, Save the Whale and Cumbria Opposed to a Radioactive Environment cannot therefore achieve registered charity status.

The Charity Commission's general guidance states : 'A charity must have only charitable purposes'. The requirement in law for a valid charitable trust is that each and every object or purpose designated must be of a charitable nature. Even if an organisation has a number of charitable purposes, if it has one non-charitable purpose, it cannot register as a charity.

For the above reasons it is not recommended that policy should include a requirement to be a registered charity.

4. PROPOSED STREET COLLECTION CRITERIA

- a) The Council will only issue street collection permits to registered charities and non registered organisations with a charitable purpose and will not usually permit more than one collection per year by an individual or an organisation
- b). The application for a permit shall be made in writing no later than the 15th of November in the year prior to the collection so that The Regulatory Panel can consider it at their December meeting.
- c). The application should include whether they are, a registered charity, working on behalf of a registered charity (with a letter of confirmation from that charity), or a non profit making organisation collecting money or selling any articles for public benefit
(As defined in Charities Act 2006).
- d).The Council will not issue permits to an individual or organisation which fails to provide adequate information in order to consider their application properly. This includes any information that might lawfully be requested by the Council in addition to that given on the application form.
- e).The Council will not issue permits to an individual or organisation for private gain nor any individual or organisation whose aims do not appear to be charitable or of a closely allied nature, or comply with the definition of charitable purpose under the Charities Act 2006.
- f). Under this Act the statutory definition of charity, including the list of charitable purposes and the public benefit requirement are set out below:

the advancement of –

- education
- religion-health or the saving of lives
- citizenship or community development
- the arts, culture, heritage or science
- amateur sport, human rights
- conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
- environmental protection or improvement
- animal welfare
- the relief of those in need by reason of youth, age, ill health, disability, disadvantage, financial hardship or other disadvantage
- any purposes recognised by virtue of section 1 of the recreational Charities Act 1958 (including for example local community centres and amateur sports clubs)
- any purposes that may be regarded as analogous to or within the spirit of any purposes which have been recognised under charity law

g).The Council will not normally issue permits to an individual or organisation that has failed to complete and return the required Form of Statement within one month following the date of a collection

h).The Council will not normally and without good reason, issue further permits to an individual or organisation that has cancelled a street collection at short notice (less than one week), on more than one occasion in the last three years

i). The Council will not normally issue permits to an individual or organisation that has held an unlawful street collection within this area, or that of another local authority

j). The Council will not normally issue permits to an individual or organisation who has breached the street Collections Regulations set by this Council, or those of another local authority within the last five years.

k).The Council will not normally issue permits to an individual or organisation who has previously submitted a returns form for a collection which has taken place in our area showing that no money was received, unless the nil return was the result of the collection being cancelled.

l).A first time collector will be required to submit detailed information and literature about the aims and objectives of the fund along with copies of accounts for the previous three years if applicable.

5. RECOMMENDATIONS

That the members consider the proposed street collection criteria, outlined in section 4 above and adopt its use, with or without any agreed changes, for all future applications for street collections..

Prepared by F Watson

CITY OF CARLISLE

Regulations with regard to Street Collections

By virtue of the powers conferred upon them by the Police, Factories, etc (Miscellaneous Provisions) Act 1916, the Carlisle District Council made 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 Carlisle to collect money or sell articles for the benefit of charitable or other purposes:-

1. No collection of money or sale of any article shall be made in any street or public place within the City of Carlisle unless the person, society, committee or other body of persons responsible for such collection or sale shall have obtained from the Council of the said City 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.

Provided that the licensing authority may reduce the period of one month is 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 street or public place.
8. No collector or vendor shall importune any person to the annoyance of such person.
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.

Provided that 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 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 received 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 or other receptacles with the 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 of sale is being made, nor any box or other receptacle which is not duly numbered.
13. No payment or reward shall be made or given to any collector or vendor. 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 Clerk and Chief Executive for 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 and 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 newspaper or 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 name of the charity or fund which is to benefit, the date of the collection or sale, the amount collected, the amount of the expenses and the amount distributed to the charity or fund.

(2) The licensing authority may if satisfied there are special reasons for so 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 such agreement and 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. Any person who acts in contravention of any of the foregoing Regulations will be liable on conviction to a fine not exceeding Level 1 on the standard scale.