

GUIDELINES FOR CHARITABLE COLLECTIONS

STREET AND HOUSE TO HOUSE COLLECTIONS

Under the Council's Model Regulations made pursuant to the Police, Factories etc. (Miscellaneous Provisions) Act 1916 'street collection' means a collection of money or a sale of articles for the benefit of charitable or other purposes in a street or public place. All such collections require a permit issued by the Council. Under Section 5 of the Act "... any person who acts in contravention of any such regulation shall be liable on summary conviction to a fine not exceeding level 1". Criminal offences are therefore committed:

- 1) If a collector takes place in any street or public place and the promoter of the charity does not have a permit: and
- 2) If a person assists or takes part in a collection without the written authority of the promoter.

House to House Collection means an appeal to the public, made by visits from house to house, to give, whether for consideration or not, money or other property (House to House Collections Act 1939 Section 11(1)). House includes a place of business so collections in more than one shop or public house also require permits. All such collections require either a permit issued by the Council or for collections over a wide area an Exemption Order may be issued by the Home Office. The District Council has no control over the house to house collections carried out under Home Office Exemption Orders. The organiser merely notifies the Council when they are taking place.

The legislation on street collections dates back to 1916 although the Council's Regulations were approved by the Secretary of State for the Environment in 1980. The legislation on house to house collections dates back to 1939 (the Act) and 1947 (the Regulations). It is not clear legislation. There are many grey areas for example collections on private premises.

The police are notified of all permits issued by the Council and are sent a list each week of all street collections for the forthcoming fortnight and house to house collections for the month including those being carried out under a Home Office Exemption Order.

PART III OF THE CHARITIES ACT 1992

Part III of the Charities Act 1992 is endeavouring to amalgamate and amend the legislation relating to street and house to house collections however this part has not yet been brought into force. The idea behind the legislation is to introduce uniformity to the rules governing collections. However from the recent consultation paper it appears that will not now be introduced in the same form as it was written. Part III went out to consultation last year with a closing date for comments of 31 December 1994 but no details have yet been received to say whether it will be brought into operation or not.

STREET COLLECTION PROBLEMS

The persons carrying out unauthorised collections do so in a number of ways and employ inventive ways to circumnavigate the current law. Most come from outside the District and St Albans is just one of their destinations. A favourite method of collecting is to sell small magazines/pamphlets for £1 or so usually to help children or babies (Special care baby units) as they know people will give to this type of cause. They claim exemption under street trading legislation for the sale of periodicals. However the Council's stance is that as they are selling articles for a charitable purposes and as such require a street collection permit. Other organisations attempt to get around the law by selling competition tickets `for charity'. As there is an element of skill involved they are not classed as a lottery yet these people are still collecting money in the street (or on shop forecourts) purportedly for charity.

Both type of collection are usually extremely dubious. They are invariably carried out on behalf of a commercial organisation which only donates a very small percentage of the money collected to charity. The collectors adopt a very `hard sell' approach to the people in the street and are paid for their work. They usually look official as they wear some form of identity badge. Even if the Council did issue a permit for such a collection the organisation would be breaking a number of the Street Collection Regulations.

COLLECTIONS ON PRIVATE PREMISES

Part III of the Charities Act 1993 when it is brought into force will clarify the law relating to collections on private premises and organisers of collections held in public areas on private premises like shops will need to hold a permit issued by the Council. However at present the Council has no control over collections held on shop premises apart from where the Council has managed to persuade the shop manager that they ought to require organisers to hold a permit from the Council. Nevertheless as soon as they step over the shop forecourt they are carrying out an unauthorised collection.

ENFORCEMENT

The District Secretary's Department is responsible for issuing permits but staffing resources do not permit a full enforcement role to be undertaken. The two members of staff responsible for issuing permits do not have the time to investigate unauthorised collections nor to ensure that the authorised collections are adhering to the Regulations. In addition there are safety implications for the staff concerned for which they have received no training. Nor do they currently have the authority to demand information from the collectors. There is also the problem that a large number of unauthorised collections take place on a Saturday when the offices are closed.

A meeting was held between officers from the Council and Sgt Brown from the Police Licensing Unit to discuss the problem of enforcement. It was agreed that where an unauthorised collection was taking place in St Albans the Council would advise Sergeant Mosser who is responsible for the city area and, subject to resources, a police officer would be sent out to investigate. On a few occasions the police have come across unauthorised collections during their routine work or have become suspicious about the actions of authorised collectors.

To enable the Council to prosecute unauthorised collectors and promoters of those collections the following procedure should be followed:

1. Ascertain that the collector is approaching people in the street and asking for money or selling articles stating that the money is to go to charity. Charity includes a charitable purpose and therefore includes a purpose beneficial to the community, relief of poverty, education and religion and any other philanthropic purpose.
2. The collector should be asked to produce a permit from the Council.
3. If no permit can be produced it would be useful to the Council if the collector could be questioned and the following information obtained:
 - a. Evidence of the collector's identity and address i.e. a driving licence.
 - b. The collector's written authority from the promoter of the charity/organisation to carry out the collection. The collector could usefully be asked whether they know if the collector has a permit or if they know the promoter should have a permit.
 - c. Details of the organisation they are collecting on behalf of including the address of the organisation's headquarters and the name and address of the person who recruited them. Whether the organisation is a registered charity and if so their registered number
 - d. Whether they are receiving payment for collecting and, if so, how much.
 - e. Obtain copies of the literature in the case of booklets/competition tickets etc. being sold.
 - f. If possible find out how much money has been collected.
4. The Charity Commission's Monitoring and Investigation Office should be contacted as they will probably have information regarding the organisation carrying out the collection and have the power to investigate the organisation's accounts. The Monitoring and Investigation Officer, John Larkins can be contacted at St Albans House, 57/60 Haymarket, London SW1Y 4QX - Tel. 0171 210 4553.
5. Under no circumstances should an unauthorised collection be permitted to continue. It may well be that the Council has already issued a permit for a collection and the unauthorised collection will be affecting their takings.
6. The Council should be advised of the outcome of all investigations so that they can decide whether or not to prosecute. The relevant contacts are Sarah Luke on St Albans 819304 or Sue Hardy on St Albans 819524.