

OADBY & WIGSTON BOROUGH COUNCIL

CHARITABLE COLLECTIONS POLICY



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1.0 Introduction

Oadby and Wigston Borough Council (“the Council”) recognises the importance of charity work in our society and understands that residents of the Borough are generally happy to support charities and those undertaking charitable work.

Robust regulation of collections by the Council is necessary for the benefit of charities and for the protection of members of the public who are asked to donate to those charities.

An excessive number of collections in a short period of time or collections carried out too aggressively can cause a nuisance to members of the public and reduce their desire to contribute. Collections being carried out illegally or by irresponsible promoters not intending to comply strictly with regulations imposed can also undermine public confidence in all charities.

Control of collections also helps to identify fraudulent collections which put members of the public at risk, undermine genuine charitable work and take advantage of the kind and generous members of the Borough.

April 2022 saw the introduction of the Charities Act 2022. Implementation will take place in three tranches in Autumn 2022, Spring 2023 and Autumn 2023. The Act is not a major overhaul however introduces tweaks to current law and processes reducing unnecessary bureaucracy.

The Council has adopted this policy due to the need for contemporary controls over collections and to develop more positive co-operation and accountability between the Council, Charities and members of the public.

2.0 Objectives

The objectives of this policy are to ensure that;

- applications to collect are made in a timely way
- charities get a fair opportunity to collect
- collections are managed so as to prevent a nuisance to members of the public and
- collections are regulated to prevent fraudulent or other illegal activities.

3.0 Validity and Jurisdiction

This policy will be kept under review and will be amended in the future to account for any changes brought about by the commencement and implementation of the Charities Act 2022 or any further change to the legislation.

Where there is any conflict between this policy and any subsequently enacted or commenced legislation, that subsequent legislation shall take precedence over this policy.

The Council recognises that no policy can be absolute and will consider all applications and decisions made under the policy on their individual merits.

This policy will only apply to the two types of collection that require an authorisation (either a licence or permit) from the Council. These are:

- House-to-House Collection Licences
- Street Collection Permits

Applications for the above should be made to, and will be granted by, the Law and Democracy (Licensing Team).

4.0 House-to-House Collection Licences

Where a charity promotes a collection in which one or more collectors go from door to door that charity requires a licence under the House to House Collections Act 1939 (referred to as 'the Act' in parts 4 and 5 of this policy) and the House to House Collections Regulations 1947 (referred to as 'the Regulations' in parts 4 and 5 of this policy).

The definition of "collection" extends beyond requests for donations of money and also includes the sale of articles and requests for articles.

The promoter of a collection commits a criminal offence if he or she allows a collection to be carried out that does not comply with the requirements of the Act and the Regulations. Any person (including a company or other organisation) promoting a charitable collection without a licence could on conviction receive a penalty ranging from a fine of £200 to a fine of £1,000 or a custodial sentence of six months.

There is no restriction on who can apply to the Council for a house to house collection licence under the Act provided that they are either promoting or intend to promote a collection for charity within the Borough.

National Exemption Order Scheme

Certain collections are not regulated by the Council. The Minister for the Department for Digital, Culture, Media and Sport is responsible for a national exemption order scheme for

house to house collections. National exemption orders are granted to organisations which have obtained house to house collection licences in at least 70-100 local authority licensing areas during the preceding two years.

Exemptions are normally granted to larger charitable organisations. Organisations issued with an exemption certificate must still comply with the Regulations and the Act but are licensed by the Department for Digital, Culture, Media and Sport.

The Council expects that those holding a national exemption notify the Council of the dates and areas of any planned collections. This will help avoid more than one collection in the same area at any one time.

5.0 Applying for a House-to-House Collection Licence

Applications are to be made in writing on the Council's application form. The Council welcome electronic applications to be made either through the Government's electronic web portal or by downloading the application form from the Council's website.

Applications must be received at least three months before the proposed collection is due to begin. This requirement may be waived in exceptional circumstances at the discretion of the Council.

The Council can refuse to grant a licence (or revoke a licence that has been granted) on certain statutory grounds outlined in the Act. These are:

- the amount likely to be applied for the charitable purposes the collection is promoted in aid of is inadequate in proportion to the value of the proceeds likely to be received
- that an excessive amount of remuneration given the total amount raised is likely to be, or has been, retained or received by any person
- the grant of the licence would likely facilitate the commission of an offence under section three of the Vagrancy Act 1824 or an offence under that section has already been committed in connection with the collection
- the applicant is not a fit and proper person to hold a licence having been convicted of an offence specified in the Act or any offence involving an element of fraud or dishonesty
- that the applicant has failed to exercise due diligence to secure that persons authorised by him to act as collectors were fit and proper persons or failed to comply with the Act and its regulations
- that the applicant has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the Act.

In order for the Council to ensure that licences are granted only to persons intending to promote a charitable collection and to ensure that a licence should not be refused on the above grounds, the following information is required to be submitted with an application:

- literature about the organisation
- a copy of published accounts of the Charity for the last two years or an overview statement of the accounts
- a copy of statement of accounts from the last four collections carried out by the applicant (including collections held in other Licensing Authority areas)
- a letter from the charitable organisation authorising the applicant to undertake the collection on their behalf, if the applicant is not the charity
- an agreement or contract details with any registered charity or individual benefiting from this collection
- a statement identifying why they are “fit and proper” to collect and the procedures in place to ensure that all collectors are equally “fit and proper”.

Additional information may be requested from the applicant to assist the Council in determining the application. The failure to provide adequate information in the application form or upon request will result in delay and may result in a refusal.

Applications will be considered on their respective merits and the Council will either;

- issue a licence confirming the requested dates, duration and location
- refuse to issue a licence on the statutory grounds; or
- issue a licence with proposed amended dates, duration and location.

The Council requires promoters to give firm dates of when they wish to collect in order to ensure that no more than one charity is collecting at any one time.

In order to manage the number of collections within the Borough and to ensure that all charities get a fair opportunity to collect, the Council will not permit a promoter of a collection to speculatively block book large periods.

The Council will not grant a licence for a period in excess of 1 month where the Council believes that the Charity does not intend to collect, or cannot possibly collect on a substantial number of days within the period specified in application. In such situations the Council shall chose the dates in which the licence is granted for which will be no more than a period of 14 days.

The Council will however accept representations in writing against such a decision if the Charity can satisfy the Council that it does intend to collect, and can collect, on a substantial number of the days applied for.

The Council may, at its discretion, split the Borough into three zones (Oadby, Wigston and South Wigston) and permit separate collections to be carried out in respect of those zones.

There is a right of appeal to the Minister for the Department for Digital, Culture, Media and Sport against the refusal or revocation of a licence within 14 days from the date on which the notice is given of the refusal or revocation.

As soon as possible after the date of any collection and no later than a calendar month after the collection, the promoter must forward to the Law and Democracy (Licensing Team) a financial return form showing details of the monies collected.

The Council has no power to attach conditions to a house to house collection licence but those granted a licence must comply strictly with the Regulations.

6.0 Street Collection Permits

Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 (referred to in parts 6 and 7 of this policy as “the Act”) requires any person promoting, or intending to promote, a collection for money in a street or public place within the Borough to have first been granted a permit by the Council before such a collection takes place.

Those granted a permit must comply with the regulations passed by Oadby and Wigston Borough Council (referred to in parts 6 and 7 of this policy as “the Regulations”).

“Collection” means a collection for “money” or sale of articles for the benefit of charitable or other purposes. “Money” is not defined by the Act or the Regulations and is a generic term considered by the Council to mean any form of representation of a person’s wealth. As such, collections seeking agreements from members of the public to transfer sums by way of direct debits are also considered to be collections for money.

The term “street” means any highway, public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not.

The definition of a “public place” is often a grey area. The foyer of a supermarket could be considered privately owned land and subject therefore only to the discretion and approval of the store manager. The entrance way to that supermarket however, where it abuts public land, could be considered a public place.

For the purpose of this policy and the granting of street collection permits the Council have determined that any collection in a place to which the public have access immediately from any public street is a public place and requires a permit.

Once a collector is further away from being immediately in contact with members of the public on a public street the Council will consider that collection to not be within a public

place provided it is occurring on land owned or controlled by a private person, company or other entity and the collection is carried out with the permission of that private person, company or entity.

7.0 Applying for a Street Collection Permit

Oadby and Wigston Borough Council operates a diary system to log in collections and applicants are encouraged to email the Law and Democracy (Licensing Team) before submitting an application in order to check available dates for their proposed collection or to offer a range of dates suitable to them. All applications will be dealt with on a first come first serve basis.

Applications are to be made in writing on the Council's application form. The Council welcome electronic applications to be made either through the Government's electronic web portal or by downloading the application form from the Council's website.

A street collection permit may be applied for in each one of the three individual town centres within the Borough.

Applications should be made at least one month before the date on which it is proposed to make the collection. This requirement may be waived in exceptional circumstances at the discretion of the Law and Democracy (Licensing Team).

An application will be considered by the appropriate Licensing Officer on its merits and the Licensing Authority will either;

- issue a permit specifying the requested date and location; or
- refuse to issue a permit.

There are no restrictions as to the grounds for refusing an application for a street collection permit and there is currently no right of appeal against a decision of the Council to refuse or revoke a licence for a street collection.

The Council will only refuse an application for a permit in the following situations:

- another person has already been granted a permit to collect on the same day and location
- the Council does not believe that the collection is for bona fide charitable purposes
- the Council does not believe that the promoter or a collector associated with the collection is fit and proper to be permitted by the Council to collect
- the promoter or a collector associated with the collection has previously failed to comply with the relevant regulations

- there is some other substantive reason related to the objectives of this policy that justify a decision to refuse

As soon as possible after the date of a collection and no later than one month after the collection, the promoter must forward to the Law and Democracy (Licensing Team) a financial return form showing details of the monies collected.

8.0 No Cold Calling Zones

Since 2006 the Trading Standards service of Leicestershire County Council has developed 'No Cold Calling Zones' within Leicestershire following the Office of Fair Trading guidelines and by working closely with the Leicestershire police and Neighbourhood Watch organisations.

No Cold Calling Zones are set up in conjunction with the agreement of residents of a localised area, to reduce the number of people knocking on doors without appointment, whether to undertake surveys, sell goods or services or to collect for charity.

Zones may only be established where there has been an incident of doorstep crime and/or there is a concentration of vulnerable adults.

Charities are asked to remain apprised of the "No Cold Calling Zones" within the Borough as they are updated regularly. The updated list can be found on the Leicestershire County Council website - **Error! Hyperlink reference not valid.**

9.0 Reporting Concerns

Genuine house to house collectors, either under a National Exemption Order or under a licence granted by the Council, are required to display appropriate badges issued by the Stationers Office.

Responsible collectors will not take offence to being asked by members of the public to clearly show their badge nor to discussing any concerns that a member of the public may have about their collection.

Members of the public should bear in mind that they are under no obligation to give and aggressive attempts at persuading a member of the public to give are not considered appropriate by the Council.

Where a member of the public is unsure whether a charitable collection is genuine the Council believes the most appropriate course of action is for that person not to give to the collector but if they wish to, take the details of the charity and donate directly to them.

The Council will maintain a list of collectors in their area and are happy for members of the public to address any concerns or complaints about collections to the Law and Democracy (Licensing Team) in writing.

Where a member of the public believes a collection is being carried out illegally they should contact the police immediately as well as the Law and Democracy (Licensing Team).

10.0 Enforcement

Acts of Parliament and regulations are of no value if they are not enforced. The Council considers that by passing such legislation and making the Council responsible for the issuing of the licences and permits outlined in this policy Parliament intends for the Council to enforce the legislation; however, the Council also recognises that all enforcement has to be fair, reasonable, proportionate, transparent and in the public interest.

The Council expects those who collect to comply with the relevant legislation and regulations to ensure their collections are conducted in a lawful, fair and consistent way.

The Council may make checks about those who apply for an authorisation to ensure that promoters and collectors have legitimate charitable aims and that the public are not subjected to fraudulent charitable requests.

Any enforcement carried out under this policy will be in compliance with any enforcement and prosecution policies adopted by the Council and will target fraudulent and dishonest collections with little or no charitable intent.

The Council recognises that most promoters of charitable collections are lay people who give up their own time to raise money for good causes. For this reason, where a promoter fails to comply with the legislation described in this policy and satisfies the Council it was due to a genuine mistake the Council would not normally consider it in the public interest to prosecute.

11.0 House-to-House Collection Regulations

Extracts of the House to House Collection Regulations 1947 are printed below. Compliance is required by all collectors carrying out a collection under a licence granted by the Council.

Some paragraphs have been omitted as they do not relate to collections carried out under the grant of a licence by the Council.

1. to 4. (omitted).

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.

13. – 16. Omitted

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.

12.0 Street Collections Regulations

All persons carrying out a street collection are required to do so in compliance with the regulations adopted by Oadby and Wigston Borough Council. These are reproduced below.

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, Oadby and Wigston 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 Oadby and Wigston 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 Oadby and Wigston 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 Oadby and Wigston unless a promoter shall have obtained from Oadby and Wigston 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 Oadby and

Wigston 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. Oadby and Wigston 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 Oadby and Wigston 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 Oadby and Wigston 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. 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 Oadby and Wigston 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.

11. 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.
12.
 - (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.
- 13.** 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.
- 14.**
 - (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.
- 15.**
 - (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 Oadby and Wigston Borough Council.
- 16.**
 - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to Oadby and Wigston 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 Oadby and Wigston 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) Oadby and Wigston 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.

17. 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.

18. 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).

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