



National Association of
Licensing and Enforcement Officers

Draft Guidance for Licensing Officers issuing licences for charitable door to door collections – England and Wales

CONSULTATION

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Statement of intent

This document should give clear guidance to licensing officers on which factors to be taken into account when determining applications for Charitable House to House Clothing Collections. If officers are minded to refuse an application then one should bear in mind the Cabinet Office's recent decision to review the way in which it will handle appeals against refusals to issue licences.

Scope

This guidance covers applications made for Charitable House to House Clothing Collections. The following section provides guidance on how to determine applications for house to house collections.

1 Introduction

1.1 Quick Check List

If you want to make sure that you handle an application for a charitable door to door clothing collection properly and fairly, but do not want to spend too much time evaluating every little detail, the Quick Check List in Appendix 1 can help.

If you have checked every point listed and you are confident of the information that has been provided by the applicant, you should be able to make a reasonably confident decision on whether a licence should be granted or not.

1.2 Charitable House to House Clothing Collections

Charitable house to house clothing collections involve the collection of clothing and footwear items directly from a householder's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities.

1.3. The Benefits.

The benefits of any legitimate charitable door to door clothing collection are clear.

Apart from being able to raise substantial sums of money for the benefitting charity, they are popular, easy to use, produce clear environmental benefits, provide substantial benefits for local tax payers, help local authorities meet their legal recycling targets, and if undertaken in partnership with a commercial partner, can help to support hundreds of local jobs.

For further information on the benefits of supporting all legitimate charitable door to door clothing collections see Appendix 2.

1.4 The Institute of Fundraising's House to House Collections Code of Fundraising Practice

http://www.institute-of-fundraising.org.uk/Codes_and_regulation/Codes/codes-directory

The Institute of Fundraising (IoF - which represents the fundraising interests of all charities) has recently launched its revised House to House Collections Code of Fundraising Practice containing information on goods collection. The revised code will now specifically address issues pertaining to charitable door to door clothing collections. Organisers of charitable door to door collections that sign up to the revised code, must be able to demonstrate that they conduct their collections to high professional standards and uphold all relevant legislation.

A publicly available document, which explains in an unbiased way how charities can benefit from the different forms of charitable door to door clothing collections and published on the IoF website is contained within Appendix 3.

1.5 Review by Cabinet Office of the way in which it handles appeals against decisions by licensing departments to refuse granting of a Charitable Door to Door Clothing Collections.

Historically, the Cabinet Office (and before it the Home Office), under the House to House Collections Act (1939), would look at how the local authority went about reaching its decision. Provided that the licensing authorities' decision was one that could reasonably have been reached on the facts presented to it, and the process it followed was fair, the Cabinet Office have not up until now considered the merits of the licence application.

However they now consider that in order for the Minister to be able to comply with their statutory function, the Minister must now look at each appeal afresh and the Minister must make their own decision on the basis of all the evidence presented to them.

For further information on the outcome of their review and consultation [see Appendix 4.](#)

2 How Charitable Door to Door clothing collections work?

2.1 The majority of charitable door to door clothing collections operate in similar ways to each other, but the information provided by operators can vary significantly depending on who undertakes the collections. There are three main scenarios to consider.

1. The collection is carried out by a third party (usually a business), which undertakes the collections, meets all the costs and usually pays a minimum fee to the charity for every tonne of clothing collected. The amounts paid directly to the charity represent the resulting **proceeds** that are applied for **charitable purpose**.
2. The collection is undertaken by the "charity" or its commercial profit making arm which is often a business registered at Companies House. The charity/commercial arm meets all the costs associated. These costs are deducted by the charity/commercial arm and the remaining net profits are the resulting **proceeds** that are applied for **charitable purpose**.
3. The collection is undertaken by the "charity" or its commercial profit making arm in the same way as point II, but then a proportion of the clothing is passed through charity shops (which again are usually run by the commercial arm of the charity arm of the charity). The majority of the clothing is sold onto textile reclamation businesses at the prevailing market rate. Again the charity/commercial arm meets all the costs associated. Any costs must be deducted and the remaining net profits are the resulting **proceeds** that are applied for **charitable purpose**.

A limited number of collections may be arranged by individuals. It is important that applications of this nature are handled in exactly the same way as if they are being

organised by a commercial party, commercial arm of charity or the charitable purpose itself.

3 The Law

(See also section 4 “What is a Charitable Purpose?” and point 4.5 “What is not a Charitable Purpose?” below)

1939 House to House Collections Act and the 1947 House to House Collections Regulations.

3.1 The licensing of Charitable Door to Door Collections is principally governed by the 1939 House to House Collections Act together with the 1947 House to House Collections Regulations. With the exception of a limited number of major national charities which hold national exemptions issued by the Cabinet Office, the majority of charitable door to door collectors must first of all obtain a licence from the relevant licensing authority.

3.2 Under the 1939 Act, a licensing authority may refuse to grant a Licence, or, where a Licence has been issued may revoke it, if it appears to the authority that: -

1. The total amount likely to be applied for **charitable purposes** as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the **proceeds** likely to be received (including any proceeds already received);
2. 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;
3. The grant of a Licence would be likely to facilitate the commission of an offence under Section Three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
4. The applicant or the holder of the Licence is not a fit and proper person to hold a Licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of Her Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a Licence;
5. The applicant or the holder of the Licence, in promoting a collection in respect of which a Licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or
6. The applicant or holder of the Licence 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 foregoing paragraphs

3.3 In respects to the Charities Acts 1992 and 2006, there are 3 relevant obligations for charitable collections.

1. The trustees have a legal duty to act in the best interest of the organization.
2. If a partnership is formed with an external organization, a contract is required, setting out the benefits and obligations of each party.
3. If a commercial party gains financially from the partnership, a solicitation statement is needed. The statement must name the benefitting charity and outline a financial amount that the charity will receive. This statement can be written or verbal, but must be made before a donation is made.

These obligations are there to protect charities interests and ensure that the public are aware of the true benefit to the charity and can make an informed decision of who to donate to.

The 2006 Act also outlined a new licensing regime, which would change how and when collectors need to apply for a licence. However, this has not yet been implemented and it is uncertain if or when it will be brought in.

4 What Constitutes a Charitable Purpose?

4.1 Under the 1939 House to House Collections Act, a licence can be refused if the proportion of proceeds going for “charitable purpose” is inadequate.

4.2 It is important to understand what constitutes a “charitable purpose” and equally importantly what is **not** a “charitable purpose”.

4.3 The 1939 Act

1939 House to House collections act defines “charitable purpose” means any charitable, benevolent or philanthropic purpose, whether or not the purpose is charitable within the meaning of any rule of law;

4.4 The 2006 Charities Act (2006)

S2 of the Charities Act 2006 also defines 13 purposes which are considered charitable in England and Wales and can be found at the following link.

<http://www.legislation.gov.uk/ukpga/2006/50/contents>

4.5 What is not a Charitable Purpose?

Profit making businesses (including fundraising arms of charities) are not charitable purposes.

5 Relevance of percentages when considering applications.

5.1 In the case of door to door clothing collections and Cabinet Office advice that each case must be considered on its own merit, setting an arbitrary minimum percentage of the total value of the clothing **going** to the charity is problematic. For reasons explained in paragraphs 5.2 to 5.6, such figures usually bear no resemblance to the amount of proceeds raised for the actual charitable purpose. At the point at which the clothing has been collected, it is unlikely that the value of the proceeds generated for charitable purpose will be much more than 20%, whoever has undertaken the collection.

5.2 Typically, the cost of collecting clothing door to door is substantial compared to the actual value of clothing at its point of collection. In 2010 these costs amounted to

about £750 for every tonne collected. With the average price per tonne of clothing being somewhere in excess of £800 per tonne, there is still some scope for efficient charitable door to door collections to raise substantial sums of money for charity, albeit on relatively small profit margins per tonne of clothing collected.

5.3 Where the collection is undertaken by a commercial third party, the charitable purpose is guaranteed a minimum income (usually based on a per tonne basis), even if it turns out the commercial partner's collect costs are more than the revenue gained through the value of the clothing collected.

5.4 However, if the charity (or its commercial arm) undertakes the collection itself, the collector may be claiming that the charity is getting 100% of the income, but if the value of the clothing they collect is less than what it costs to collect it, they will lose money.

5.5 Published accounts indicate that around 80% of all revenue generated by a charity's trading subsidiary is ploughed back into the running of the trading arm. So even if the trading arm passes all its profits onto its affiliated charity, it usually means that around 20% of the total revenue generated goes for charitable purpose. If the subsidiary were not to pass on all the profits the amount going for charitable purpose would be lower.

5.6 One should also bear in mind that if a charity runs a shop and chooses to pass some of the items through a shop, typically about 80% of the revenue generated by the shop will be re-invested back into the running of the shop. In any case, the process of adding value by sorting clothing and passing it through charity shops, is a separate activity from the door to door collection, and is not covered by the 1939 House to House Collections Act. See special note in Appendix 1.

Please note: The costs and figures quoted in this section were correct at the time of writing and are subject to change. They are for illustrative purposes only.

6 How can one be sure that the amount of proceeds going for charitable purpose is adequate?

6.1 As mentioned in 3.3, trustees are under a duty to ensure that all actions are in the best interest of the organisation. This will involve considering financial and reputation aspects before entering into a contract. Charity employees are well versed on standard returns from partnerships, so will often be aware of what is considered standard and can use this when considering a new agreement.

6.2 Local authorities may wish to consider requesting a "statement of due diligence" from the charity associated with the collection as part of the supporting documentation, (See Appendix 1, Quick Check list, para 4.)

7 Model Application

7.1 The attached model application form in Appendix 6 can be used by licensing authorities to assess whether a charitable door to door clothing collection should be granted a licence. All applicants, whether they are a charity themselves, the commercial arm of a charity or a third party such as a commercial collection partner must all be asked all the same questions and must provide answers to all the questions.

7.2 For reasons explained below, it is very important that licensing officers understand how much is going for charitable purpose and that they are able clearly to distinguish this from the income received by whoever undertakes the collection.

7.3 Supplementary information may be requested to support the application. Please see the checklist in Appendix 1

8 Important issues for Consideration (Summary).

When considering applications the financial information given is sometimes difficult to interpret. Unless the applicant is able to clearly identify the proportion that will be donated to a charitable purpose and the licensing department is confident in the calculations the applicant should be asked to clarify the information that they have provided. If they are unable to clarify information requested, they should first be invited to withdraw the application. If they refuse to withdraw the application following a request for clarification then you may be minded to refuse the licence.

1. It is particularly important that an application provide clear information about who is undertaking the collection (e.g. whether it is an individual, a commercial collection partner, a charity's commercial collection arm or a registered charity itself). It is also important that the application makes a clear distinction between the revenue received by the collector and the proceeds that are actually applied to the charitable purpose.
2. The collection costs incurred by the collector will vary dependant upon the method of collection and should be taken into account and deducted before the amount being sent for charitable purpose can be derived.
3. If the proportion allocated to the charitable purpose is clear, the licensing authority must be satisfied that the amount to be given to the charitable purpose is adequate in relation to the proceeds received. The 1939 House to House Collections Act does not make any stipulation as to what constitutes an adequate proportion and it is up to individual licensing authorities to make their own decision
4. In deriving this, licensing authorities need to be mindful that although the costs of collecting a tonne of clothing can be substantial in relation to the actual value of the clothing, this in itself should not be seen as an automatic reason for refusing a licence. Efficiently run charitable door to door clothing collections can make substantial sums of money charities despite high collection costs and remove what could otherwise become significant amounts of textile waste from the household refuse stream.
5. When assessing an application to undertake a charitable door to door clothing collection, Licensing authorities should assess whether the proceeds actually going for charitable purpose (after all remuneration/collection costs have been deducted) and should adopt a default position where they only consider refusals if it is apparent that these proceeds of a particular collection, are significantly lower than those being achieved by other similarly modelled collections operating in the same area at about the same time.

6. Licensing officers should also be mindful of the outcome of the recent judicial review between Birmingham Council, the Minister for the Cabinet Office and Clothes Aid where the Minister accepted he made an error of law when considering the appeal and that a full merit assessment of Clothes Aid's licence application should have been carried out. Cabinet Office is currently reviewing the way that appeals are viewed as a result of this case.
7. As well as appraisal being given to the proportion of proceeds being applied for charitable purpose and remuneration or costs incurred as a result of the collection, licensing officers should also consider whether any of the other grounds for refusal stipulated in the 1939 House to House Collections Act and highlighted in paragraph 3.2 of this guide are relevant to the application being considered.
8. If it is known that there will be a too high concentration of charitable door to door clothing collections taking part in the particular area at around the same time, as the proposed collection being considered, the Licencing Authority may want to consider undertaking the following (in order of preference);
 1. Arrange by mutual agreement with the collector to grant a licence to operate a collection on alternative dates;
 2. If this is not possible, make a recommendation to the collector to withdraw the licence application;
 3. If having followed point 1 first, then 2 above the collector refuses to withdraw the application, then the licence can be refused.

9 Policy outcomes

Outcomes and links to the corporate outcomes

If this policy is adopted it should contribute to the following outcomes:

- Good reputation with customers and regulators
- Good quality of life – helping to create cleaner, safer, prosperous, healthier and sustainable local environment.
- Effective partnership working – Helping to support and create jobs both locally and nationally, and to raise funds for local and national charitable purposes.
- Members and staff with the right knowledge, skills and behaviours

10 References

House to House Collections Act 1939
 House to House Collections Regulations 1947 & 1963
 Police, Factories, &c. (Miscellaneous Provisions) Act 1916
 Metropolitan and City Policy Districts Regulations 1979
 & (Amendment) Regulations 1986
 The Charitable Collections (Transitional Provisions) Order
 1974. As Amended in Council, 1992 Model Regulations
 1992 Charities Act
 2006 Charities Act.

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Appendix 1.

Quick Check List **for handling charitable door to door clothing collection licence applications.**

Below is a quick check list, which has been developed to help licensing officers make decisions on a day to day basis, as to whether a licence should be granted for a charitable door to door clothing collection.

This check list forms part of the guidance developed by NALEO in conjunction with the Institute of Licensing, Institute of Fundraising and trade representatives. The guidance expands on the issues dealt with below. It is recommended that licensing officers ensure that they familiarise themselves with the contents of the full guidance as well as make use of the quick check list.

1. Has the applicant answered all the questions in the “Model Application Form” (see below)?
 - If yes, go to question 2
 - If no, return application form and ask applicant to complete.
2. Who is applying for the licence? Is it:
 - i. An individual.
 - ii. A Commercial Collection Partner.
 - iii. A Commercial Arm of a Charitable Purpose (or similar)
 - iv. The actual benefitting Charitable Purpose.
 - v. Other.

It is important to be aware of who is undertaking the collection. In the case of collections done by charities, it is important to know if it is actually the charity or its commercial arm running it, as this may affect how much money will reach the charitable purpose.

3. Has the collector clearly identified all tangible costs that they have been asked to provide in the “Model Application Form”?
 - If yes, go to question 4.
 - If no, return form to applicant.
4. Has a statement been provided by the benefitting charitable purpose stating that they are aware of their legal requirements, that they have exercised due diligence and that the collection will raise the maximum possible benefit for the charitable purpose?
 - If yes, go to question 5.
 - If no, return form to applicant.

The statement can be signed by someone from the fundraising department, management team or the trustees.

This statement is important as it ensures that the charitable purpose has stated that they have considered whether they have got the best deal. It also means that

licencing officers have dealt with their duty to ensure that appropriate returns are going to the charitable purpose, without second guessing or overruling decisions made by the charitable purpose.

5. Is it clear what proceeds (in terms of Pounds Sterling/for every tonne collected) will be going to the charitable purpose?

- If yes, go to question 6.
- If no, see special costs considerations note below.

If you think that the proceeds going for charitable purpose may be too low, then you may wish to consider talking to the applicant to see if this can be reviewed. However, it is important to bear in mind that the commercial or fundraising arm of a charity is not likely to be considered a charitable purpose and collection costs must be considered and deducted, whoever undertakes the collections.

6. Are there any other licensed charitable door to door clothing collections proposed to be taking place at around the same time in the same area.

- If yes, you may wish to consider deferring the collection to a later date if there is too high a concentration of collections in the area over the period.
- If no, go to question 7.

7. Are there any other reasons listed under 1939 House to House Collections Act, section 2, paragraph 3 for refusing a licence?

- If no to question 7, and you are happy with the answers to the other questions and the model form then you should be minded to grant a licence. See special cost considerations below.
- If no to question 7 but you are not happy around amounts going to charity, please see special costs considerations note below.
- If yes to question 7. then you should approach the applicant to see if the matter(s) can be resolved.

Special Cost Considerations Note.

Sometimes it may be difficult to establish what proceeds are being applied for charitable purpose, Sometimes, the collectors will claim that 100% goes to charity. However, the 1939 House to House Collections Acts requires licensing officers to consider how much is being applied for charitable purpose. For reasons shown below it is important to establish what the associated costs of running the collections are and deduct these so that the amount applied for charitable purpose can be worked out.

Basic formula for working out profit

In economics to work out the profit of any venture, the following formula is applied.

Profits = Revenue Generated – Total Costs incurred by profit making venture.

To work out the amount of money being applied for charitable purpose, the following terms could be substituted and applied to the above formula, so that it would now read.

Profits applied for Charitable Purpose = Revenue Generated (through sales of clothing) – total costs incurred through collections.

Therefore, in order for licenses offices to be able to establish how much money is applied for charitable purpose, they need to know how much revenue is generated and what the collection costs are.

The 1939 House to House Collections Act requires any applicant by law to declare such refusals or revocations truthfully. However, the refusals process has always been done one way and because it was very complex, it was very difficult for to successfully appeal against a decision to refuse a licence. Any refusals which were issued before the review by the Cabinet Office into the appeals process and the issuing of this NALEO guidance should be considered with this in mind.

Appendix 2.

The Benefits of Supporting Legitimate Door to Door Charitable Clothing Collections

They are popular.

Surveys have shown that there are many members of the public who will only support door to door collections over other collections such as charity shops and textile banks, citing much greater convenience as a key factor.

There are clear environmental benefits.

Clothing is also the fastest growing household waste stream and it is estimated that the clothing industry accounts for about 5 to 10% of all environmental impacts within the EU. The Government have identified textiles as a priority waste stream and a recent report commissioned by DEFRA made an explicit recommendation to encourage higher collection rates through the expansion of local authority approved door to door clothing collections.

They benefit local authorities and the local tax payer.

In addition to this, all local authorities have been set legally binding recycling targets, which they have to achieve. By licensing all legitimate charitable door to door clothing collections, local authority recycling departments can use the data contained within returns submitted by the charity collectors and include this in their overall figures.

Furthermore, licensing of these collections makes direct financial sense for local taxpayers. They can make direct financial savings. Local Authorities have to pay a levy on all waste that they send to landfill. By diverting more textiles away from the waste stream these costs to the local authority are reduced. One should also consider that Waste Collection Authorities (usually borough or district councils) can make a Waste Collection Credit claim to Waste Disposal Authorities for all the waste that is diverted away from disposal in their area.

They can help to support local jobs.

It is important that local authorities are seen to support local job opportunities as well as charities that operate in their area. Many charities choose to engage the services of a commercial partner to undertake collections on their behalf, often because the charity is simply not prepared to undertake the financial or logistical burdens associated with undertaking collections themselves or they simply do not have the resources. Some textile collectors/graders employ hundreds of people and these businesses rely on a regular supply of affordable quality clothing in order to maintain their businesses.

Where collections are being undertaken by Commercial Partners and all relevant legislation is being upheld, licences for collections should be granted.

Appendix 3.

The relative merits of the different forms of Charitable Door to Door Clothing Collections.

The Purpose of this document:

House to House Clothing Collections Guidance.

What information does this document provide?

This document outlines the three main ways in which legitimate charitable door to door clothing collections take place. They are as follows:

1. Charities which undertake collections in partnership with commercial door to door collection businesses.
2. Charities that undertake their own door to door clothing collections without the use of a commercial collection partner and do not sell the items through a charity shop.
3. Charities that undertake their own door to door clothing collections and which sell some of the collected items through their charity shops.

All three types of collection have their relative merits and help raise significant funds for charity. Unfortunately, this method is under threat from bogus collectors, who pretend to represent charities, but in fact will keep all monies for themselves. Bogus collectors are taking goods that the public wish to see go to charity, and depriving the charity sector of much needed goods and income. This briefing also provides guidance and tips on how to spot bogus collectors

This document was produced by the Institute of Fundraising, The Fundraising Standards Board, The Textile Recycling Association, The Charity Retail Association and Kidney Research UK.

Why should people support charitable door to door clothing collections?

1. *They are good for the environment, the economy and charitable fundraising.*
We currently buy over 2 million tonnes of new clothing and textiles every year in the UK, and according to DEFRA it is UK's fastest growing household waste stream. At the same time we are dumping over 1 million tonnes of used textiles in the bin and collecting only about 550,000 tonnes for re-use and recycling annually. More needs to be done to increase re-use and recycling and decrease dumping.
2. *They are popular with the public and convenient to use.*
Up until recently door to door collections of clothing have been a relatively underutilised method of collecting clothing, but they are becoming increasingly popular with the public and charities alike. According to the results of a survey undertaken on behalf of the "Professional Fundraiser", door to door clothing collections are popular because the public feel that there is a lack of pressure to give. Many respondents said that "it is a great way to get rid of serviceable items", they offer greater convenience than other collection methods and make it easier for the public to recycle clothing.
3. *They help charities to raise significant funds and support employment opportunities in the UK.*

All legal charitable Door to Door clothing collections not only provide a valuable service to the public and highly significant environmental benefits, but they also provide opportunities for all participating charities to raise significant funds, and support employment opportunities for thousands of people here in the UK.

There are in principal three different ways in which charitable door to door clothing collections can operate. These are outlined below. All of them can provide significant income for the benefiting charity, can divert significant amounts of clothing and textiles away from the waste stream and be tailored to suit the individual set up of the benefiting charity. All the different collection methods have their relative merits.

It is the actual net profit that the charity receives for each tonne collected and the weight of clothing that can be collected and processed which is of key importance to a charity.

There is statutory protection to keep charities from entering agreements that may not be advantageous. The House to House Collections Act 1939 allows local authorities to refuse a licence to a collection that they feel does not provide a reasonable level of benefit to a charity. Trustees and charity managers also operate under a fiduciary duty to ensure that any agreements are in the best interests of the charity. This legislation and best practice guidance (including the Institute's House-to-House Collections Code and also Charities Working with Businesses Code) can assure donors and licensing officers that legitimate charity collections, no matter who undertakes them, result in the charity benefitting financially.

What are the different collection methods?

1. Charities which undertake collections in partnership with commercial door to door collection businesses.

Under such arrangements the commercial collection partner meets all the costs of setting up and promoting the scheme and undertakes all the work. The collection partner can then prepare the clothing for export at the prevailing global market prices.

The benefiting charity then receives a payment from the commercial collection partner. The rest of the operating profit goes to the participating textile collection business.

The profits generated by the business helps to secure paid jobs for the thousands of people employed in the UK textile reclamation industry.

Such arrangements offer charities a risk free way to fundraise. The commercial collection partner undertakes all burdens. The benefiting charity does not incur any costs, commercial risks or the inconvenience that running such a scheme incurs. If there is a downturn in the market, the losses that would be incurred are met completely by the commercial collection partner. Under this type of arrangement, there can be a very high turnover of clothing and the potential to generate large sums of money every year for the charity is significant.

2. Charities that undertake their own door to door clothing collections without the use of a commercial collection partner and do not sell the items through a charity shop.

Some charities may choose to undertake their own door to door clothing collection without the use of a commercial collection partner so as to try and

increase their profit margins.

Charities that choose to pursue this model may have the staff and/or resources to undertake such collections and may be prepared to accept the commercial risks associated with such collections. Unlike the collection method described above, if there is a downturn in the market, any resulting financial losses that are incurred would have to be met by the charity.

Once the charity has undertaken the collection itself, it can then sell the clothing at the prevailing market price in the same way as commercial collection partners sell the clothing in the method above. However, the charity will have incurred the costs associated with collecting the clothing, which will be higher if paid staff are used.

3. Charities that undertake their own door to door clothing collections and which sell the collected items through their charity shops.

A small number of charities have charity shops, through which they can sell clothes. Charity shops provide good quality, affordable clothing and other items.

Some of these charities choose to undertake door to door clothing collections using either paid staff or volunteers. They then retail a percentage of the better quality items in their shops as a means to increasing their potential profit on every tonne of clothing that they collect. The remainder is sold on to merchants at the prevailing commercial market rate, before being exported for re-sale in a similar manner to clothing collected via methods' 1 and 2 above.

The charity itself will be bearing additional costs and physical burdens when undertaking door to door clothing collections of this nature. They will also be realising additional financial risks. By using volunteers as opposed to paid staff a charity can reduce its costs.

What is the situation with bogus collections?

Unfortunately, there are a number of clothing collectors who give the impression that they are collecting for a charitable or philanthropic cause, but all monies go to commercial operations. Some collectors will put out leaflets pretending a legitimate charitable collection, or will simply take bags that were intended for legitimate charity collections.

There are a few simple things that you can do to check whether the collection leaflet or bag that you have received is for a genuine charitable collection. You can:

- Check to see if the collection purports to support a genuine UK registered charity (with the registration number given). This should not be confused with other numbers like "Company Numbers" or "Export Numbers".
- Check that there are genuine contact details for the Charity on the bag.
- See if the collection organiser bears accepted kitmarks, such as the Fundraising Standards Board (FRSB) tick, the Charity Retail Association (CRA) logo or Institute of Fundraising (IOF) membership logo.
- Check with the local authority to see whether the collection is licensed. With the exception of a few big national collection charities, most charitable door to door collectors are required to obtain a licence from the local authority where they collect.
- Contact the charity that the collection will supposedly benefit, as they can tell

you if a genuine collection is being done in your area or not.

The Charity Commission (www.charity-commission.gov.uk) and the Charity Retail Association (www.charityretail.org.uk) provide further guidance on giving to legitimate collections.

If you suspect that an unauthorised person has collected the clothing that you have put out, you can ring the police to report a theft. If you can remember which charity was meant to benefit you can also call the charity concerned.

Appendix 4.

Office for Civil Society provisional position on appeals under the House to House Collections Act 1939

Where a local licensing authority refuses to grant a licence (or revokes a licence), there is a right of appeal to the Minister for the Cabinet Office (under section 2(4) of the House to House Collections Act 1939). Under section 2(4), local licensing authorities must set out in writing their decision including the grounds for refusal (or revocation), and must inform the applicant of their right of appeal to the Minister for the Cabinet Office. Any such appeal may be brought within 14 days of the date of the notice.

As a starting point, house to house collections appeals will be considered afresh on their merits, based on the information provided by the applicant to the local licensing authority, and any additional information provided to us by either party. This approach represents a shift, based on legal advice, from our previous position of simply reviewing whether the local licensing authority's decision was one that it could legitimately make (without consideration of the merits of the application).

In determining an appeal on its merits, we will need to consider whether to refuse the application on one of the grounds in set out in sections 2(3)(a) to (f) of the House to House Collections Act 1939 ("the 1939 Act"). These are:

(a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received);

(b) that 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;

(c) that the grant of a licence would be likely to facilitate the commission of an offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;

(d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a licence;

(e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent

prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or

(f) that the applicant or holder of the licence 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 foregoing paragraphs.

The most common grounds on which appeals have been received for refusals in recent years are (a), (b) and (f).

In considering the test in (a) above (“the proportionality test”), what we regard as “inadequate” will depend on the nature of the collection. We acknowledge that the costs of conducting certain types of house to house collection (e.g. of second-hand clothing) tend to be higher than other collections (e.g. of cash). In relation to collections of second-hand goods for re-sale, the value of the goods at the point of donation may be low, and it is through the collection and sorting process that value is added, resulting in a saleable product. We will therefore take into consideration reasonable costs of conducting the collection.

In considering the test in (b) above (“the excessive remuneration test”), we will consider whether remuneration or expenses paid out to any persons involved in organising or conducting the collection are at a level that is reasonable for the type of work being undertaken, taking into account that the collection is said to benefit a charitable purpose.

In most cases we will need to ask for more information from both the appellant and local licensing authority unless it has been provided as part of the license application process or when the appeal was lodged. This is likely to include a copy of the relevant commercial participator agreement where a commercial partner is undertaking the collections on behalf of a charity, copies of the collection materials (leaflets/bags), details of some previous collections – e.g. returns provided to local authorities, what steps the promoter takes to secure that collectors are fit and proper persons, whether best practice e.g. membership of the Fundraising Standards Board, mechanism for dealing with complaints etc..

Appendix 5.

The Preamble to the Charitable Uses Act 1601

The following purposes have been found to be analogous to the purposes set out in the Preamble:

- The provision of public works and services;
- The provision of public amenities;
- The protection of life and property;
- The preservation of public order;
- The defence of the realm;
- The promotion of the sound development and administration of the law;
- The social relief, resettlement and rehabilitation of persons under a disability and deprivation;
- The promotion of certain patriotic purposes;
- The promotion of health and the relief of sick, ill and disabled people;
- The care, upbringing and establishment in life of children and young people;
- The training and retraining of and finding work opportunities for unemployed people.

Appendix 6,

House to House Collections Act 1939

House to House Collections Regulations 1947

Model Application Form for licence to undertake Charitable Door to Door Clothing Collections.

To the [Licensing Authority] for (here insert name of [licensing area]).

In pursuance of section 2 of the House to House Collections Act 1939, I hereby apply for a licence authorising me to promote the collection, of which particulars are given below.

Date (Signed)

PARTICULARS OF COLLECTION

1. Surname of applicant (in block letters).

Other names.

2. Name of organisation undertaking collection (if applicable). If collection is being undertaken by a registered company, please also provide registered company number.

3. Contact Address of applicant.

4. Is the organisation/individual undertaking the collection:

- (a) An individual,
- (b) A registered company (including any subsidiary company of a registered charity or charitable purpose),
- (c) Any other type of business,
- (d) The registered charity or charitable purpose that is proposed to benefit from the collection.

Note that if a collection is undertaken by any subsidiary company which is owned by a charity/charitable purpose (including any fundraising company arm of a charity) and that entity has its own legal identity then box (b) must be ticked and a registered company number provided in answer to question 2 (if applicable).

5. Particulars of charitable purpose to which proceeds of collection are to be applied. (Full particulars should be given including name of organisation, registered address, registered charity number (if applicable) and appropriate contact details, Furthermore, where possible, the most recent account of any charity which is to benefit should be enclosed).
6. Over what parts of the [licensing area] is it proposed that the collection should extend?
7. During what period of the year is it proposed that the collection be made?
8. Is it proposed to collect money?
9. Is it proposed to collect other property? If so, of what nature? and is it proposed to sell such property or to give it away or to use it?
10. Approximately how many persons is it proposed to authorise to act as collectors in the area of which the application is addressed?
11. Is it proposed that remuneration should be paid out of the proceeds of the collection-
 - (a) to collectors (including collection costs incurred by the charity/charitable purpose if they are undertaking the collection themselves or any subsidiary company of a registered charity or charitable purpose)?
 - (b) to other persons?

If so, at what rates and to what classes of persons?

Note to applicant

In deriving the answer to question 11, all tangible costs should be considered including:

- *Cost of purchasing bags/leaflets;*
- *Distribution costs;*
- *Vehicle costs (including fuel, hire, insurance and other costs)*
- *Collection staff and other associated staff salaries;*
- *Warehouse/storage costs;*
- *Any other tangible cost that be attributed to the door to door collection.*

12. Is application being made for licences for collections for the same purpose in other [licensing areas]?

If so, to what [licensing authorities]?

And, approximately, how many persons in all is it proposed to authorise to act as collectors?

13. Has the applicant, or to the knowledge of the applicant, anyone associated with the promotion of the collection, been refused a licence or order under the Act, or had a licence or order revoked?

14. Is it proposed to promote this collection in conjunction with a street collection? If so, is it desired that the accounts of this collection should be combined wholly or in part with the account of the street collection?

15. If the collection is for a War Charity, state if such charity has been registered or exempted from registration under the War Charities Act 1940, and give name of registration authority and date of registration or exemption.

ⁱ Remunerate (definition) - to pay, recompense, or reward for work, trouble, etc. Source (www.dictionary.com).