
**HOUSE TO HOUSE COLLECTIONS
COLLECTION ON BEHALF OF THE FIRE FIGHTERS CHARITY**

Purpose of the Report

1. To consider an application for a House to House Collection Licence from Tom W Beaumont Ltd in respect of The Fire Fighters Charity.

Background

2. The House to House Collection Act 1939 (the “1939 Act”) requires that any collection for charitable purposes from households or businesses be subject to a House to House Collection Licence. The Licensing Authority in whose area the collection is to take place, issues such a licence. If collections are to be made over a significant number of areas an application may be made to the Secretary of State for an exemption notice and this confers the authority to promote and make a collection as if a licence was in place. Although collections made in accordance with the 1939 Act anticipated the collection of monies such collections also include the collection of goods, generally clothing, shoes and household items, that are either used directly for charitable purposes or are sold and the proceeds from such sales are used for charitable purposes.
3. Section 2(3) of the 1939 Act permits the Licensing Authority to refuse an application or revoke a licence on the following grounds:
 - (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.
 - (c) That the grant of a licence would be likely to facilitate the commission of an offence under Section 3 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, had failed to exercise due diligence to secure that a person 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 the persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed certificates of authority being obtained by persons other than persons so

authorised.

- (f) That the applicant or holder of the licence had 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.
4. If a Licensing Authority does refuse an application or revoke a licence it must give reasons in writing along with details of the right of appeal to the Secretary of State at the Home Office. Such appeal must be made within 14 days of the notice of refusal or revocation. The decision of the Secretary of State is final.

Information and Analysis

5. On 2 June 2009 an application was received from Tom W Beaumont Ltd to collect for a twelve month period on behalf of The Fire Fighters Charity. This is a registered charity that helps injured fire fighters and burns victims. The application was accompanied by a supporting letter from the charity stating that they are working in partnership with the Applicant Company.
6. On 4 June 2009, following a request by the Officers for further information, the Applicant Company stated that for every tonne of goods (e.g. clothing, shoes and household items) collected 20% (i.e. "£100) of its value would be given to the Fire fighters Charity.
7. Members may recall an appeal against the Council's decision to refuse an application for a House to House collection from UK Recycling in June 2006 where the Applicant wished to donate 15% of the overall proceeds to charitable purposes. In this case the Secretary of State dismissed the appeal and referred to the policy adopted by the Secretary of State in relation to exemption orders for House to House collections which requires at least 75% of the proceeds of a collection to be donated to charitable purposes. Although the matter Members are considering is an application to the Local Authority, Members must be satisfied that an adequate proportion of the proceeds raised is donated to a charitable purpose.
8. On 26 June 2009 the Applicant Company was advised that it was the Council's standard practice to permit collections only if 75% of the proceeds are given to the charity concerned, and that therefore it was not possible to grant the application on the basis set out on their letter of 4 June 2009. They were also advised that if they still wished to pursue the application it would be placed before the Council's Licensing Committee for decision.
9. On 12 August 2009 a further letter was received from the Applicant Company claiming that two other collectors in Darlington were only giving £20 and £50 per ton to their charity, and that therefore in real terms the Applicant Company would be donating far more. One of the named collectors is Clothes Aid who the Council no longer licence because of the low percentage of donation to the charities for whom Clothes aid collect and therefore any collections carried out in the Darlington area are unlicensed. Officers have written to the other collector, Skye Textiles who are collecting on behalf of Deafblind UK to make further enquiries about the percentage of proceeds per tonne that is donated to the charity.

10. The Applicant Company has asked that the Council re-think the application and in a subsequent telephone conversation their representative has confirmed that the Company would like their application to be considered by the Licensing Committee. A letter of invitation has been sent for the Applicant Company to attend Committee and make representations to Members.

Human Rights Act

- 11 (a) Article 1 of Protocol 1 of the European Convention of Human Rights confers on individuals (and companies) the Right to Peaceful Enjoyment of their Possessions and the Protection of Property.
- (b) Once granted, a Licence is a possession.
- (c) No one can be deprived of his property or have controls put on his property except where the action is permitted by law and justifiable in the public or general interest.
- (d) When considering matters relating to the grant, revocation, renewal or refusal of licences and the placing of conditions on licences, the Committee must consider whether the decision affects an individual, group or company's Human Rights as set out in the Convention and if it does, whether the interference with those rights is permissible by reason of the justifications set out in the Convention. In addition consideration must be given to whether the interference is proportionate.

Legal Implications

12. There are no issues that the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Crime and Disorder Act 1998 Section 17

13. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Recommendation

14. It is recommended that Members consider whether or not to grant or refuse this application for a House to House Collection licence in the light of information contained within this report.

Paul Wildsmith
Director of Corporate Services

Background Papers

- 1 House to House Collections Act 1939
- 2 Application and letters from Tom W Beaumont Ltd

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