

Charity Commission Response to Public Collections consultation.

Introduction

The Commission welcomes the recommendations of the Strategy Unit report to clarify the legislation regarding public collections, and has supported the ACD throughout the consultation exercise on this paper. The ACD has put forward some very interesting proposals, and we all have an interest in ensuring that these are developed into a clear and workable framework for all involved in public collections.

Of key importance is to identify the purpose of the legislation, and in particular of licensing collections. We have identified what we believe are the three key aims of licensing, plus a subsidiary aim for the framework:

- 1 To ensure that only bona fide organisations are authorised to make public collections for charitable, philanthropic, or benevolent organisations, and to prevent abuse of public trust by bogus collectors;**
- 2 To ensure that any authorised collections are carried out responsibly and in a manner that will not cause a public nuisance;**
- 3 To ensure that such authorised collections have a reasonable expectation of benefiting the cause for which they are collecting, and that all funds and property collected are safeguarded for that purpose; and**
- 4 To enable all bona fide organisations to have equal and fair access to the public, within a proportionate framework of regulation.**

Most of the questions asked in the consultation address these key aims, but greater clarity may be needed in the final form of the framework as to the purpose of each part of it. Above all, it is vital to ensure that a proportionate approach is adopted which strikes the correct balance between enabling responsible fundraising and reducing the potential for bogus collections to take place; and between establishing a clear and consistent national framework, while at the same time giving freedom for local efforts, imagination and initiatives.

We have summarised our response to the proposals to match the above aims as follows:

- 1. Basic eligibility checks to determine credentials of licensed collecting organisations. Checks would include - charitable registration; compliance history (Annual Returns, Report and Accounts); collecting history (past licence refusal, any breaches of conditions/codes); fit and proper personnel involved (self-declaration with spot checks). Where non-authorised collections are identified, they need to be dealt with by the**

appropriate authority, with liaison with others such as local authorities, police and the Charity Commission as necessary.

- 2. Principles of behaviour and public nuisance issues will to a large degree fall within the area of best practice, which we have submitted should be covered within the self-regulatory framework also currently being consulted on. However, capacity decisions will also need to recognise the potential for public nuisance, and local knowledge will need to play a part in this. There should also be clarity and consistency of criteria for determining 'public nuisance' so that collectors know what is expected of them, the public knows what standards to expect, and local authorities have clear guidance on how to determine capacity, and how to identify poor practice. Codes of practice will be needed to ensure proper behaviour, and are being looked into as part of the proposed self-regulatory framework. As this system is developed, a breach of recognised codes could be a reason to suspend/remove permission/licence to operate. Clarification may be needed as to who would be the arbiter of whether or not codes are adhered to (local authority/self-regulatory body) and what sanctions might be available for breaches.**

- 3. While effectiveness is clearly an issue of public concern, it is questionable as to whether it is proportionate to ask for proof/estimates of effectiveness/safety as a condition of issuing a licence. Given the expertise needed to assess this information in a useful manner, it may be sufficient to require standards and records to be kept by charities/collectors, and to have them provided either for spot checks, or when reasonable cause for concern indicates further investigation is necessary. Clarity is needed as to which authority is responsible for redressing causes for concern. However, the wider regulatory stance, including self-regulation by the sector, could usefully be strengthened to support the principle of effective fundraising, and effective use of the proceeds of fundraising. The Charity Commission will continue to hold charities to account where issues of effectiveness arise, but the primary responsibility here is for the sector to develop good practice in this area.**

- 4. In order to ensure that licensing truly protects the public interest, the framework needs to be clear and consistent for all concerned. The public, charities, collectors, local authorities and other authorities need to be clear about the criteria for eligibility, capacity and standards of behaviour. This will enable charities to comply with requirements, people to make informed decisions about what sort of collections they wish to support, and enable authorities to identify those operating outside the requirements. To ensure that any framework is workable, it will need to be proportionate and focussed on achieving the main aims of licensing. Our suggestion is to have a simple test of eligibility (based on objective factual knowledge of organisation/personnel concerned) which can be administered either at local, regional or national level. There will be a**

need for some central intelligence to ensure that a full track record is available to local authorities making capacity decisions, and to the licensor. Capacity decisions and monitoring of behaviour should remain at the local level, where the expertise and local presence already exists.

Our detailed comments on the questions raised in the consultation paper can be found below. Where others are likely to have more expertise or direct knowledge than us, we have either not responded, or have put forward more generalised opinions only.

Questionnaire for respondents:

Proposals for consultation

Section 1 The structure of the scheme

This section examines key features of the structure of the proposed scheme.

1. Is the proposal for a new integrated licensing scheme in principle a good one?

The Commission supports the idea of an integrated licensing scheme in the interests of providing clarity and consistency for the public, charities, collectors, and local authorities and other regulators.

At the same time, the extent of such a scheme needs to recognise the potential burdens, both in terms of administration, compliance and enforcement, and needs to reach a balance between gaining maximum benefit in terms of improving public confidence, with minimum burden to bona fide organisations/collectors.

2. Should a licence be needed to carry out face-to-face fundraising?

There appears to be no reason for face-to-face fundraising to be excluded from legislation which regulates other forms of collection for charitable purposes from the public. It is a particularly high-profile method of fundraising at the moment, and it is anomalous that there should be such lack of clarity about the regulation of this activity, leading to inconsistent treatment in different local authority areas. Again, consistency from the point of view of the donor is important, and the proposal to licence face-to-face fundraising will help to address this.

For ease of both administration and understanding, it appears most sensible to have a unified scheme to cover all methods of public fundraising, whether house-to-house or street based, and whatever form of donation is requested, whether cash, direct debit commitment or goods.

3. What would be the main consequences of licensing face-to-face fundraising for local authorities and fundraising organisations?

Local Authorities would have clarity about the requirement for face-to-face fundraising to be licensed, and would have guidelines to enable them to determine applications consistently. The amount of work involved would potentially increase, although currently some do already deal with face-to-face fundraising. Fundraising organisations would also have clarity about the need to obtain a license, and would have a level playing field across the country in terms of consistent treatment of applications.

4. Should the definition of 'public place' include private property to which the public has unrestricted access (for example, supermarket forecourts)?

The Commission has consistently supported this concept. The key issue here is the public perception, which in certain cases is unlikely to distinguish between public high streets and technically private forecourts, malls etc. The aim of widening the definition is to reduce the spaces where unscrupulous collectors feel free to work with little scrutiny.

However, we appreciate that the owners of such spaces should be consulted on this matter, particularly where they may already have quite robust private 'licensing' arrangements in place (London Underground and some mainline stations as examples¹). It is also important to consider the implications on those areas excluded from the definition of 'public place'. There will still be issues regarding the boundary between forecourt and shop proper, and whether or not the public perception will be clear about this. Consideration should be given to meeting with e.g. the British Retail Consortium to discuss the potential impact on privately owned shops.

5. Should some types of property and types of collection be explicitly excluded? If so, are the right exceptions proposed (for example, collections in shops)?

While individual shops are rightly excluded on the basis that it is clearly private property (albeit with public access) and that any collection is unlikely to pass unnoticed by the owner, it is important to emphasise that exception should not extend to shop-to-shop collections.

It may also be helpful to ensure that any exception of church property specifies that it only refers to property specifically used for church/charitable purposes, to ensure that it doesn't extend to investment properties.

6. Should small local collections be exempt?

This is a question of definition and balance. Unfortunately, as recent cases have demonstrated, fraudsters often operate precisely in the small-scale manner that would be exempted from this regulation, making their gain through repetition and avoiding notice. On the other hand, many legitimate small local groups should not be prevented from raising funds locally in a relatively informal manner by overly onerous licensing requirements. The regulatory framework should not stifle local efforts, imagination or initiatives.

Income thresholds on individual collections are therefore problematic, but it is difficult to see how else issues of materiality can be managed. Perhaps a simple requirement for small local collections to declare contact details, a registered charity number if available, and permission from the charity to collect on their behalf would be sufficient, combined with general better education among the public about what

¹ Information source - class inquiries into collections in the name of Charity on LU, Euston and Waterloo Mainline stations, 2003

to look out for. In addition, it appears sensible and proportionate to exclude collections taking place in private premises (houses and gardens - but not house-to-house) and on property belonging to community groups.

If definitions are made using size of collection, consideration should also be given to how to deal with a 'small' collection exceeding expectations and generating a large return. Perhaps at point of gaining permission from the local authority, collectors should be informed of the need to report if the return exceeds the 'small' definition.

7. How should a small local collection be defined (for example, collections conducted only in one local authority ward)?

Restricting 'small local' collections to specifically only one local authority ward may cause problems if a small local group based on a boundary wishes to collect. Perhaps the geographical restriction could be based on a radius from the collecting address, combined with amount collected and numbers of collections on behalf of the same cause (this would help to minimise the potential for fraudsters to avoid regulation by repeating many small-scale collections).

In addition, there may be an argument for the sake of clarity to include certain specific categories of collections, which are generally perceived as small and local - e.g. carol singing.

8. Is the proposal for 'lead authorities' (to assess the eligibility of collections where the proposed activity spans a number of local authority areas) a good one? What would the impact be for district councils?

The prima facie reasons for licensing (as outlined in the introduction) assume that it is necessary in order to minimise abuse and bad practice, and to maintain local control over quantity and siting of collections. On the other hand, the majority of bona fide organisations should be enabled to collect within a proportionate framework of regulation, and with an expectation of fairness and equal access to the donating public.

On this basis it seems to be a sensible proposal to reform the existing national exemption scheme, so that organisations wishing to collect over several local authority areas on a regular basis do not have to duplicate effort in obtaining a licence, and so that this effort is also not duplicated at local authority level.

It appears to be a matter of reasonable consensus that decisions regarding capacity should be made at a local authority level, as they would bring the local knowledge necessary, and should be aware of what collections are legitimately occurring, in order to be able to identify those that are not legitimate.

If a two-tier approach of a licence to confirm eligibility to collect and a permission to operate locally based on capacity/public nuisance considerations is accepted as desirable, the issue is then where the eligibility decision should be made, on what basis, and what line of accountability/responsibility would best fit the system.

A key issue here is to determine what the purpose of assessing eligibility is, as this will influence the extent and administrative burden of the checks.

If it is simply to ensure that the organisation is bona fide, the checks might involve establishing that the organisation is registered as a charity, has a history of good compliance (Annual Return and Annual Report and Accounts), possibly extending to checks that there is a good track record regarding its collecting history (e.g. whether it has been refused a licence elsewhere or in the past, or other issues regarding collections), and checks on whether personnel involved are 'fit and proper'. As long as there is a central, reliable source of information, these checks need not be onerous or require much expertise to administer, and need not be made centrally. To reduce administrative burden further, some areas should be matters of self-declaration, with a spot check system.

The alternative is for checks to go beyond the basics, to establish at the point of licensing either the adherence to good codes of practice (e.g. training of staff, actual practice during the collection) or the effectiveness of the collection. If this approach is taken, more information will be required, there will inevitably be a greater need for expertise to interpret the information, and a consequent increase in resource and administrative burden for these checks to be meaningful.

Questions have to arise as to whether this is the intention of licensing; if it is proportionate to the risk posed by the majority of those applying for licences; and how this fits with other moves towards greater self-regulation, particularly in the field of fund-raising. We would submit that, depending on developments in the area of self-regulation, a simpler check on good practice and effectiveness might be the display of a Fundraising Standards kitemark, which again would enable the check to be made at a decentralised level.

9. What are the advantages of the 'lead authority' proposal?

- **It is a proportionate approach to the issue of licensing.**
- **Objective, simple, fact based assessment of eligibility does not need to be repeated at a local level, freeing local decisions to be made on capacity alone.**
- **It should not involve a great deal more work for the local authority nominated as lead, given that all local authorities should already have the capacity to determine eligibility, as they will have to do so for those collections not taking place over a wide area.**
- **If the checks are simple and objective, and the forms concerned are standardised, there should not be a problem with consistency - in fact it should lead to greater consistency than at present.**
- **Overall, the work for local authorities will be reduced, as repetition of eligibility assessment will be minimised.**
- **Capacity will still be judged at local level, using vital local knowledge (of events, geography, public opinion etc), but with consistent guidelines regarding**

acceptable criteria - this will both assist the local authorities, and ensure fairness and a level playing field for applicants.

- **By granting permission at a local level, the capacity for local authorities to identify those operating without permission/licence should be increased.**

10. What are the disadvantages of the 'lead authority' proposal?

- **Concerns have been raised about the potential burden on 'popular' lead authorities, who will have to do more than their fair share of eligibility checks. (although the real extent of this burden will depend on the extent of those checks)**
- **If consistency of approach cannot be ensured, there is a risk that sharp operators will find a 'soft touch' local authority to obtain their licence, leaving other local authorities with reduced power to prevent them from operating, as they will be constrained by the capacity criteria.**
- **A solution to the above problems would be to be more prescriptive about which authority could be the lead authority for any given organisation, rather than making it entirely down to choice. We would suggest this would be the local authority nearest to the business address of the charity or fundraiser.**
- **Potential for fragmentation regarding information. This could be overcome by ensuring that there is a central data source to capture refused licences or local misdemeanours, which all local authorities would have access to.**
- **Potential for disputed jurisdictional issues. This could be addressed by clarity of identifying the lead local authority (see above), and clear guidelines and protocols between various authorities concerned.**

11. Is the proposal to differentiate between administrative arrangements for the collection of goods a sensible one?

The proposal seems proportionate to the type of collection and the usual circumstances in which they take place. This type of collection also appears to attract fewer complaints from the public, and one could assume it is therefore less of a public nuisance issue.

However, there have been increasing numbers of 'bogus' clothing collectors - commercial companies which do not state that they are charitable, but whose leaflets may give that impression to the public. It is difficult to see how this legislation might deal with them without overburdening legitimate charity collectors, unless the wording could be tightened up to include any clothing collection which gives a reasonable impression of being for charitable, philanthropic or benevolent purposes.

12. Is there any reason why the appeal process should not be the same for both types of collection?

No.

13. Are there any arguments for not making the Magistrates' Court the avenue of appeal?

Others will be able to provide a more evidence-based response to this question.

Whatever appeals route is chosen, the issue of consistency and dissemination of messages from appeals will need to be addressed.

14. Should responsibility for licensing public collections in London be transferred from the police to local authorities?

The Commission is not in a position to assess the impact of this. However, while the argument to achieve a consistent position across England and Wales is cogent, recognition should be given to the fact that London Boroughs do not currently have the experience or infrastructure to deal with licensing public collections, and suitable transition arrangements would have to be made. These arrangements should also aim to address the loss of the central intelligence available under the current system.

The proposal could potentially also substantially increase the number of charities collecting across more than one local authority area, which may have an impact on resourcing the lead authority proposal, or on collectors' ability to obtain licences/permission to collect from all the boroughs concerned.

Has consideration been given to transferring this responsibility to a different central authority in London, and would the GLA fit the bill?

15. Do you consider that any offences should be added to or removed from the list above? Please give your reasons.

Provision should be made to increase amounts of penalty rates by regulations from time to time (without recourse to further legislation).

The rates are very low in contrast to the potential benefit accrued by those who commit such fraud, and are unlikely to act as a deterrent as a result.

The underlying issue of capacity and willingness in monitoring compliance and enforcement of breaches needs to be addressed for the list of penalties to be meaningful.

Should a penalty for breaching requirements regarding solicitation statements also be included here, or is this being covered elsewhere in the Charities Bill?

16. Cost of administering the licensing scheme:

(a) What information do charities and local authorities have which they could without disproportionate effort make available to us?

There are some other sources which could be looked at for useful examples, both in terms of costs, what works and what doesn't, and what might constitute reasonable returns. E.g. Gaming Board, informal 'fund ratios' shared between charities etc.

(b) What are the costs of administering the present system?

(c) What additional costs/savings are envisaged under the proposed system? Estimates of the financial costs/savings would be welcomed.

If the full checks proposed are administered properly, rather than 'rubber-stamping' licences or keeping initial checks to a minimum, significant costs could be expected. The level of detail required to make such an assessment will not be available from SORP compliant financial statements in their present form, and it is not currently envisaged that SORP will ever develop to the level of detail required. For the larger charities, the Standard Information Return may be a vehicle for requiring segmental data on fundraising, although again this is unlikely to go to the individual collection level, and much work would be involved in ensuring consistency of cost allocation.

Even if the information to be provided by charities and collectors is information one would expect a good organiser to keep in any event (thus minimising the cost and burden on the collectors), having properly trained staff to be able to interpret the information received effectively, and the capacity to monitor/undertake spot checks on information provided on trust (such as declarations) will inevitably require some resourcing. The impact of this could be minimised by having a risk-based framework, with minimal requirements for low risk applications, and resources focussed on the higher risk areas. However, more fundamentally the question should be asked as to whether the degree of detail and the sort of information being requested is necessary for the purpose of licensing.

Some savings should be made through lack of duplication (i.e. instead of making 10 separate applications to individual local authorities, with the resources required by both applicant and local authority, only one licence application is made, releasing the resources of the other 9 authorities to focus on capacity decisions and local monitoring of collecting activity).

17. Does it remain the general view that no charges should be levied for a licence?

If the current system of only performing rudimentary checks is maintained, it would probably be more cost effective not to charge.

If a more rigorous system of checks were brought in, significant costs would be incurred, and it is unlikely that they would be fully recovered.

Whatever the licensing authority, these resource implications will have to be borne in mind - if the charges are levied, this could have a significant impact on cost/income

ratios of collections for charities; if they are not, the resources will have to be provided from somewhere to cover the costs of the licensing authority.

A suggestion for addressing cost issues might be to do more thorough eligibility checks before granting licences over a longer period (e.g. 5 years). Lower risk organisations, and those with a good track record, might have less rigorous checks made. As well as being less onerous on the licensing authority, this might make a system of charging more feasible.

Section 2 Local authority operation of the new scheme

Responses to this section will inform the proposed guidance for local authorities on the operation of the new scheme.

18. How should philanthropic and benevolent best be defined (for example, by analogy with local authority rating decisions)?

This is perhaps an area where local authorities can bring their experience to bear, in terms of the criteria they use to determine Business Rate exemptions. Other potential sources for comparative definitions might be the Community Fund or the Inland Revenue.

A clear definition would hopefully ensure minimal confusion in the public eye between a charity and a non-charitable non-profit organisation.

19. Are collections where there is a significant element of private benefit (for example, sponsorship for challenge events) philanthropic or benevolent?

If funds are raised for charitable purposes, the collection surely falls within the category of a charitable collection, regardless of the type of event. The distribution of benefit between the charitable purpose and 'private gain' (whether in terms of payment of professional fundraisers, or personal satisfaction arising from a challenge event) will not change the charitable nature of the purpose, although the poise may be a matter of regulatory interest.

The definition of 'philanthropic and benevolent' is not dependent therefore on the distribution between private benefit and the ostensible cause - it is the cause itself that needs definition as either charitable or philanthropic or benevolent, and after that the balance of private/purpose benefit becomes a best practice and regulatory issue.

20. What factors should local authorities consider when assessing the capacity of a local area to accommodate collecting activity?

Others are likely to have more expertise than the Commission in this area. In particular, local authorities will have the benefit of greater knowledge both of the local environment, and the voluntary sector in their area. Central guidance on broad

criteria will help to achieve a beneficial consistency of approach, a level playing field for all collectors, and clarity for fundraisers to know in advance what is expected of them. However, some scope should be left for local knowledge and flexibility to be brought to bear.

Factors to consider in assessing capacity:

- **Local socio-economic factors**
- **Geography of collecting area (e.g. length/width of high street)**
- **Number of people passing through (footfall), including proportion of 'repeat' visitors, especially at commuting times**
- **If feasible, a survey of local public opinion and attitudes towards the number of collections (as distinct from behaviour of collectors) to inform judgements on capacity.**

21. What factors should local authorities take into account when allocating collection slots (for example, the quality of different sites)?

If particular sites and times are identified as regular collection slots, this should assist in monitoring illegal activity, which will be easier to spot if it occurs outside these times and places.

In terms of allocation of these slots between different causes, the PFRA have some interesting experience and proposals in this area. Again, some degree of local input might be preferable when deciding the appropriate balance between access to local and national causes.

22. Are the checks on eligibility suggested the right ones?

The checks on eligibility suggested seem to cover the essentials, and should be information that is relatively easy for local authorities to check and assess. To directly undertake PNC checks regarding unspent convictions would no doubt be administratively burdensome, but by obtaining declarations, and then undertaking e.g. 10% spot checks, this burden should be kept to a minimum.

One potential addition would be that if the applicant is a registered charity, a check could be made to see if the accounts and annual returns have been submitted on time - this can be easily and quickly done via a quick online search of the Commission's register.

23. How might liaison arrangements between local authorities, the police and the Charity Commission be improved?

Memoranda of Understanding have been developed with the Association of Chief Police Officers and the Local Government Association, with regard to exchange of information including information relating to public collections.

The Commission is also working to drive liaison arrangements forward on a regional level, largely acting as facilitator. Currently, the Commission attends county licensing fora where they exist, and keeps a record of these and the relevant contact details within those areas. Police attendance at these fora is patchy and dependent on local authority licensing officer contacts, and interest/resource at local police level.

Work is ongoing to encourage the establishment of licensing fora in County areas which do not yet have them, and we are looking into the possibility of hosting an annual national meeting of County licensing officers.

It is currently more problematic to develop a similar national system of involvement/regular updating with the police authorities, although again there are areas where liaison works well, which might be built upon.

In active local authority areas, the licensing officer is likely to know when to contact the Commission, and will have the contact details if they need advice or want to alert us of unlicensed collectors/other problems with local collections. More consistent guidance regarding the different authorities' remits might be helpful, and this may be developed via the existing licensing officers' fora.

At present, the Commission's role is largely to facilitate better liaison - if it were to develop beyond this, the resource implications would need to be considered.

24. What factors should local authorities take into account when assessing whether a collection is likely to be/is a public nuisance?

Some clarity is needed in this area, to maintain the consistent approach put forward in other areas of the proposals, and also to ensure that effective enforcement can be achieved. Some suggested factors:

- **This is another area where there may be some potential in surveying public opinion on what constitutes a nuisance for them, rather than just relying on information gleaned from a small number of complaints (which could represent the views of a disaffected minority, or conversely be the tip of the iceberg).**
- **Context of other collecting activity - over-saturation could be a nuisance factor**
- **Particularly sensitive collecting positions (e.g. next to ATM cash point; entrance to public transport stations/stops)**
- **Past record of the charity/professional agent**
- **Demonstrable commitment of collector to acceptable codes of practice regarding the behaviour of collectors - to include demonstrable provision of adequate training for staff; active monitoring of actual behaviour; robust and transparent complaints procedures.**

25. Should all collection organisers be required to submit estimates before and/or returns

after the collection detailing the costs of and proceeds from the activity?

The issue with regard to effectiveness of collections is primarily one of transparency, and ensuring that the public can make an informed choice about what to support and how much to give.

Measuring the effectiveness of collections is primarily the responsibility of the charity or other organisation concerned. Any respectable fundraising organisation should be looking at this information in any case, otherwise it is hard to see how they can effectively manage their collections, or decide on the best fundraising strategy for their organisation. They are also likely to have a greater degree of knowledge and expertise regarding the different expectations and timeframes from different types of fundraising activity than local authority licensing officers, and should be better equipped to interpret the estimate/return information more accurately.

In determining what information collectors should be required to submit at the point of licensing, we first need to have some clarity about the purpose behind asking for the information. Is the point of licensing to measure effectiveness, or to control the style, frequency and transparency of collections?

If it is considered part of the role of a licensing authority to take effectiveness of collections into account, the resource implications of this needs to be carefully considered. Given resourcing issues within Local authorities, the need for a degree of expertise in interpreting data on fundraising returns, and the ultimate purpose of licensing, it may not be cost-effective to require this information to be submitted as a condition of licensing or capacity.

If there is an assumption that detailed monitoring of the effectiveness of collections is something the Commission should be involved with, we would need to align this with our new statutory objectives and regulatory role, as these become clear from pre-legislative scrutiny.

The current position is that the cost-effectiveness of individual collections is not picked up in SORP accounting, as it is not designed for this degree of micro-detail. However, responsible organisations should be monitoring and keeping this information themselves, and should be encouraged to engage in more transparent benchmarking to assess their own effectiveness. And they may be required to provide this information to justify their activities should other factors come to light which would call the licence into question or impact on the reputation of charity as a whole.

Our broad view on this issue is that effectiveness is not primarily a licensing issue, although it is an important area for charities to take responsibility for, and for the Commission to regulate where costs cannot be justified in terms of the benefits to charity.

26. Should collection organisers who are employees, trustees or regular volunteers for a registered charity be exempt from the requirement to submit returns on their collecting activity?

See above for the Commission's more general views on any requirement to submit such detailed returns on collecting activity, and the need to connect information requirements with the purpose for which the information is to be used.

From the donors' perspective, it is important that direct employees, trustees or regular volunteers for charities should not be treated any differently to agents or philanthropic and benevolent organisations. If the general view is taken that returns should be part of the licensing process, then the licensing authority cannot rely on the fact that charities must prepare general accounts and annual returns in compliance with SORP. The purpose of the SORP is to provide a general purpose accounting framework, and it cannot be used for such detailed returns information - it does not currently require detail on particular collections, and is unlikely to be the right format for any possible development of more micro-accounting in the future.

If registered charities are excluded from making specific returns, but other organisations must do so, the other organisations (including excepted and exempt charities) will in essence be regulated more rigorously than the registered charities - is this the intention of the proposal?

27. Is the information which it is proposed organisers should submit sufficiently comprehensive (see section on Accounting for Collections)?

- 1. as mentioned above, accounting via SORP will not currently show the degree of detail on particular collections seemingly expected by the proposals. If it is deemed necessary to have this degree of detail when determining a licence, then it will have to be specifically required of registered charities, not as an aspect of annual accounts disclosure.**
- 2. Written agreements should certainly be in place, and it is the responsibility of the charity to ensure that such agreements do protect their interests. However, there is no specific monitoring of this at present, unless the matter has been particularly raised with the Commission. Again, this is more detail than can be covered in the general-purpose accounts reporting framework required by the SORP.**
- 3. We agree that assessment of costs against particular collections can be difficult, depending on the methods and the payment structures involved. Charities should have the responsibility for doing this themselves, and responsible organisations will already have systems in place for doing so, in order to be able to make reasonable and responsible decisions about their fundraising strategies.**
- 4. Assessments of costs against estimated income and actual returns is also a difficult task, and we agree that this is probably not worth taking on by local authorities. It would be particularly difficult to monitor returns estimated over the longer term, in association with particular costs. However, again this is something that responsible organisations should be doing for themselves, in order to assess their own performance against benchmarks for that type of activity, and to ensure that they are being as effective as possible. They**

should therefore keep such information, and be required to provide it if called upon to justify their fundraising activities.

Aside from the issue of whether or not licensing should concern itself with the effectiveness of particular fundraising activities, one of the issues in this area is that of how much is actually spent on the purpose of the collection, not just how much is raised by it. This is perhaps an issue more directly relating to the effectiveness of an organisation, not just its fundraising activity, and for registered charities is regulated through the broader monitoring undertaken by the Commission. Any additional regulation and requirements for information at the point of licensing should be focussed on those 'at risk', either by virtue of not being formally regulated elsewhere, or through other risk factors to be determined (e.g. type of organisation, type of activity, size, and track record).

Section 3 The requirements placed on the organisers of collections

28. This paper proposes that the collection organiser and another responsible person or two other responsible people should be present at the opening of collection boxes? How should 'another responsible person' be defined in this context?

What is the definition of 'collection organiser' in this context? There is a danger that if this is not carefully defined, it would make local collections for national charities almost impossible.

The principle behind this safeguard is to protect against the potential for fraud or theft of cash from collections. There seems no reason to stipulate that the other 'responsible person' should not be connected with the cause. In most cases, the people present at the opening of the boxes are likely to be employees or volunteers - it would be very difficult for most organisations, particularly at a local level, to obtain the services of a completely independent person, and would probably involve some cost. The provision here should be brought in line with other government initiatives to promote greater participation in civic society, and be proportionate to the risk involved. Our suggestion would be to specify that 'not connected' means not connected to the other people present by way of relation or dependency to minimise the risk of fraud at this stage.

Definition of 'responsible' could include a minimum age (to ensure that they can be held responsible) ; knowing their contact details; declaration that there are no relevant unspent convictions.

If the intention is to go further with the definition of 'responsible', perhaps a model can be found in the definition of those eligible to witness oaths? However, this seems excessively burdensome for smaller collections.

29. Collection organisers should have basic safeguards in place to secure the proceeds

of collections? Are other safeguards, in addition to those suggested needed?

The safeguards proposed appear reasonable, and most people would no doubt expect such things to already be done.

There is an issue here, as elsewhere, with the degree to which compliance with these safeguards can be monitored and enforced.

Some possible additions might include:

- **Some specific mention of safeguards required when collecting direct debit commitments. The detailed requirements are likely to be contained in other legislation/guidelines, such as Data Protection Act and direct debit schemes, but could usefully be mentioned here.**
- **Specify that cash proceeds to be kept in a secure place until banked.**
- **Do copies of the licence need to be numbered and handed back at the end of the collection? To reduce opportunity for unauthorised copying and use.**

30. The organisers of public collections might require all their collectors to sign an undertaking that they do not have a relevant unspent conviction. Is this requirement sufficient to ensure that collectors are 'fit and proper'?

Clearly it would be too burdensome on organisers to check every collector's record, and self-declaration is the preferred route to establish this information. However, should they also be required to do a spot check of e.g. a 10% sample of these declarations?

'fit and proper' is not confined to the lack of a relevant unspent conviction. Organisers should also be able to demonstrate that they provide proper training and awareness of the legal and best practice issues in relation to collecting, including training regarding the safeguards mentioned above, before allowing anyone to collect for them. Following the proportionate approach, perhaps a self-declaration would be sufficient at the point of licensing, which might be given additional weight if a kitemark scheme is introduced via the self-regulation proposals. Again, spot checks might be undertaken, or charities asked to demonstrate their procedures if their collections are giving cause for concern.

31. Should the minimum age of street and house to house collectors be set at 14 (or lower), provided that the collectors up to the age of 16 are accompanied by an adult or should the minimum age for all collectors be set at 16 (or higher)?

A sensible proposal here would be to apply one rule to all forms of collection, and to ensure that all collectors under the age of 16 are accompanied by an adult, who has been deemed to be 'fit and proper' in their own right.

32. Are the record keeping requirements suggested sufficient/reasonable?

These all appear to be reasonable requirements for record keeping, and to be the minimum expected of a reasonable organisation. However, for the purposes of the legislation, it is important to be clear about what the information might be used for, and also to have some guidance to make clear when issues would be dealt with by local authority licensing officers, and when they would be referred to either the Commission or the Police.

There may need to be a more specific definition of 'accounting for expenses' to ensure consistency of cost allocations. The simplest definition would be the direct costs of the fundraising activity - i.e. fees paid to the collectors, and direct travel and subsistence costs. Where an agent or commercial firm is used, the overall costs of a collection can likewise be easily identified.

Where a collection is managed 'in-house', allocating costs could become more complicated if the supervision, management and organisation costs are also to be included. And if central core costs are also to be included, accounting for the expense of an individual collection could become too unwieldy to be practicable.

33. Should local authorities be able to suspend licences while they investigate any concerns about collecting activity?

Yes, if they have reasonable cause for concern with regard to the activity. There should be appropriate mechanisms in place to ensure that investigations proceed as speedily as possible, and that organisations affected have recourse to appeal if they wish to do so.

Consideration might also be given to including a means of imposing penalties on organisations which continue to collect while suspended, unless this is already covered by the existing penalties. This could be a grey area which would need to be addressed in the drafting of the Bill.

34. If you have other comments to make in response to the consultation please use this space.