

Written Ministerial Statement - Public Collections

The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart): The Government's consultation paper on proposals for a new local authority licensing scheme, Public Collections for Charitable, Philanthropic and Benevolent Purposes, was published on 9 September 2003, with a closing date for responses of 2 December 2003. Over 250 responses were received. In addition, officials from my Department hosted a series of 12 consultation events across the English Regions and in Wales. I am extremely grateful to all those who contributed. A summary of the responses received has been placed in the Library and will also be available on the Home Office website at www.homeoffice.gov.uk/comerace/active/charitylaw/index.html.

The consultation exposed a wide range of views on the issues involved. Although there was a clear consensus on some of these issues, on others key stakeholders held different and sometimes opposing views. The Government does not wish to impose solutions and the proposals I am announcing today are accordingly intended as a basis for further discussion. Provisions giving effect to these proposals will be included in the draft Charities Bill which was announced in The Queen's Speech, and the Government will take account of comments on the draft Bill as well as any recommendations of the joint Committee before taking a final decision on the provisions to be included in the Bill when it is formally introduced.

Against this background the Government makes the following proposals.

First, we propose that the scope of the licensing scheme should be extended to cover face-to-face as well as other forms of public collection. 222 respondents commented on this proposal and a clear majority (92 per cent) agreed that face-to-face fundraising should be brought within the scope of the new scheme.

Second, we propose to extend the definition of a public place within which public charitable collections must be authorised to cover areas such as station concourses and supermarket forecourts. This proposal was also widely supported. As explained in the consultation document, Part III of the 1992 Act would have covered collections in stations, airports, shopping precincts and other similar property, and we accordingly propose to implement the relevant provisions as part of the new scheme. There will be a new provision to ensure that organisations like the National Trust are able to organise public collections on their own land without needing to seek permission from the local authority.

Third, we propose that the granting of a permit to collect would be subject to a two stage test. The first stage would require the organisation which wishes to collect to satisfy the appropriate local authority that they are fit to collect. Fitness would focus on whether the applicant had been convicted of a relevant offence; whether the person promoting the collection was duly authorised to do so; whether the applicant had taken steps to be satisfied that collectors were fit and proper persons; and whether appropriate steps had been taken to safeguard badges and other certificates of authority. The ratio of the costs of undertaking the collection to the total funds raised would not be a matter for the local authority to take into consideration. If satisfied, the authority would issue a certificate of fitness which would be valid for up to five years. In the case of a house to house collection, an organisation would have to obtain only a certificate of fitness and not satisfy the second stage of the test. The organisation would, however, be under an obligation

to notify the local authority of their intention to collect in the area. The reason for distinguishing between house to house and street collections in this way is that it is believed that house to house collections present fewer capacity problems (ie that the collection would inconvenience members of the public or that other collections had already been organised to take place in the same locations or at the same times. The second stage of the test would be to determine whether there was capacity in the area. If there was such capacity, the local authority would issue a permit to collect. No charge would be made for the issue of either the certificate or the permit.

Fourth, we propose to discontinue exemption orders which are issued by the Home Office to large organisations conducting house to house collections in a significant area of England and Wales. Instead a “lead authority” concept would be introduced which would apply to both street and house to house collections. Organisations which propose to collect cash or direct debits in more than one local authority area would be required to apply to a lead authority for a certificate of fitness. In order to prevent organisations from making multiple applications for such a certificate to more than one authority, an organisation would be required to apply for a certificate to a designated local authority. In the case of a registered charity, it would be the authority in whose area the charity’s address is. The address would be the one which appears on the Charity Commission’s register. For all other organisations the application should be made to the authority within whose boundaries the promoter’s principal address is. The holder of a certificate of fitness would still have to apply to each local authority for permission to undertake a street collection, but the local authority would be able to refuse permission only on grounds of capacity. In the case of house to house collections, organisations which have a certificate of fitness would be obliged to notify the relevant local authorities of their intention to collect. Although the lead authority proposals in the consultation paper were not widely supported, there is support for the principle that decisions on fitness should be separated from those on capacity, and we believe that the consultation paper proposals have been modified to meet most of the objections raised.

Fifth, we propose that all collections, in a public place and by means of visits door to door, which are local and short-term in nature should not come within the licensing scheme, as is already the case for house to house collections of that nature under the legislation now in force. The organisers of any local, short-term collections would continue to be required to give advance notification, but the notification would be given to the local authority rather than, as is required at present, to the police.

Sixth, in a significant measure of deregulation we propose that house to house collections of goods should also be completely removed from the scope of the licensing scheme. 84 per cent of the 189 respondents who commented thought it was sensible to make separate arrangements for the collection of goods. Respondents argued that the collection of goods from house to house does not raise any significant issues of capacity or inconvenience to householders, and that the risk in terms of fraud and loss is significantly smaller than for cash collections. Organisers of house to house goods collections would accordingly be under an obligation only to notify the local authority of their intention to collect.

Seventh, we propose that responsibility for authorising public charitable collections in London should pass from the Metropolitan Police to the London boroughs, except in the City of London where responsibility already rests with the Common Council. The 129 respondents who commented were almost evenly split on this. 47 per cent thought that responsibility should be transferred to the boroughs, as Parliament

agreed in 1992, and 48 per cent thought it should stay with the police. London is the only place in England and Wales where responsibility for licensing public charitable collections rests with the police. The Government does not believe this is an appropriate function for the police service to take on, but we will discuss further with key stakeholders in London whether any arrangements are needed over and above the lead authority proposals described above for collections which take place in more than one London borough (including the City).

Eighth, the right of appeal against a local authority decision to refuse either a certificate of fitness or a permit to collect will be to the magistrates' courts as proposed in 1992 rather than under the legislation now in force to my Rt Hon Friend the Home Secretary. It is not appropriate for decisions of this kind to be taken by central Government.

Finally, we propose to set up a group to include the local government associations, the police service, charities, charity sector umbrella organisations and the Charity Commission to oversee the preparation of regulations and guidance and ensure effective implementation and delivery of the proposed arrangements.

These proposals constitute, we believe, a balanced package which seeks to minimise the burdens on local authorities and charities whilst ensuring effective regulation. The overall impact in public expenditure terms is expected to be neutral. However, in the case of the London local authorities, funding would be made available to cover the new duties which would fall to them under these proposals. Similarly, the transfer of the responsibility for hearing appeals to the magistrates' court would call for a transfer of funding to the Department of Constitutional Affairs. A detailed regulatory impact assessment based on information provided through the consultation period has also been prepared. The regulatory impact assessment forms part of command paper 6199 - Draft Charities Bill. A copy has been placed in the Library and will be available on the Home Office website at www.homeoffice.gov.uk/comerace/active/charitylaw/index.html.

The Government's underlying aim is to increase public confidence in charities and the charity sector by putting in place an up to date and effective regulatory framework. With these changes, the Government believes it should be possible to give effect to the provisions already passed by parliament into law as part III of the Charities Act 1992. The draft Bill will accordingly proceed by way of amendment to the 1992 Act rather than the pre-war legislation still in force which the 1992 Act would have repealed.