09 October 2019

To: All Councillors

As a Member of the Licensing & Appeals Committee, please treat this as your summons to attend the meeting on Thursday 30 January 2020 at 6.00 pm in the Council Chamber, Town Hall, Matlock DE4 3NN.

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES

Please advise the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, IF NOTICE HAS BEEN GIVEN, (by telephone, in writing or by electronic mail) BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING.

3. MINUTES OF LAST MEETING

17 October 2019

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council’s Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.
5. LICENSING ACT 2003

REVIEW OF LICENSING POLICY (ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT)

To consider the need for a five yearly review of the District Council’s Licensing Policy relating to Alcohol, Entertainment and Late Night Refreshment and to approve a formal 12 week consultation exercise, the results of which will be reported back to the Committee, prior to approval of the revised policy by Council and its republication by the statutory deadline of 31/01/2021

6. PROPOSED POLICY ON STREET COLLECTIONS AND HOUSE TO HOUSE COLLECTIONS (CHARITY COLLECTIONS)

To consider a report seeking approval for consultation on the Draft Policy in Appendix 1, relating to Street Collections and House to House Collections (Charity Collections), and that the results of the consultation exercise are reported back to a future meeting of this Committee for consideration when approval would be sought to adopt a final Policy

Members of the Committee: Councillors Jacqueline Allison, Paul Cruise, Tom Donnelly (Chairman), Graham Elliott, Alyson Hill, Stuart Lees, Michele Morley, Joyce Pawley, Claire Raw, Andrew Statham (Vice Chairman) Steve Wain and Mark Wakeman.
Report of the Head of Regulatory Services

LICENSING ACT 2003
REVIEW OF LICENSING POLICY (ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT)

PURPOSE OF REPORT

The report informs the Committee of the need to carry out the 5-yearly review of the Council’s Licensing Policy relating to alcohol, regulated entertainment and late night refreshment. Authority is sought to carry out a formal 12-week consultation exercise so that a revised Policy can be approved by full Council, and be re-published by the legally set deadline of 31st January 2021.

RECOMMENDATION

1) That the Draft Policy in Appendix 1, relating to Alcohol, Entertainment and Late Night Refreshment Licensing, is approved for consultation.

2) That the results of the consultation exercise are reported back to a future meeting of this Committee for consideration.

WARDS AFFECTED

All Wards

STRATEGIC LINK

An effective licensing regime contributes towards the District Council’s priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1. BACKGROUND

1.1. The Licensing Act 2003 (section 5) requires every Licensing Authority in England and Wales to review and re-publish a statement of its alcohol, entertainment and late night refreshment licensing policy every five years. In 2005 the requirement was that a review should take place every 3 years, but section 122 of the Police Reform and Social Responsibility Act 2011 changed this period to 5 years with effect from January 2011.

1.2. Irrespective of the statutory period for review, Licensing Authorities are encouraged to keep the policy under revision throughout the 5-year period; it should be developed in light of feedback on whether the licensing objectives are being met, and in accordance with any revised guidance issued to local authorities under section 182 of the Act.
1.3. The policy sets out the principles that this Licensing Authority applies to promote the licensing objectives (see paragraph 1.5), when making decisions on applications for new licences or variations to existing licences, made under the Act. It focuses on the authority’s approach to its responsibilities under the Act.

1.4. The Policy does not include procedures for making applications or holding committee hearings as these matters are covered by separate guidance and procedure documents and are made available to all would-be applicants together with a copy of the Policy.

1.5. The Licensing Objectives

There are 4 licensing objectives specified in the legislation, and these are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

2. THE POLICY STATEMENT

2.1 The existing licensing policy was adopted originally by the Council in January 2005 and was revised and re-published in January 2008, 2011, and 2016.

2.2 Before the Licensing Authority determined the original policy in 2005 it was required to consult with:

- the chief officer of police;
- the fire authority;
- local licence holders and bodies representing licence holders (eg beer and pub companies, CAMRA, British Institute of Innkeepers, other trade associations);
- local residents and bodies representing local residents (eg town and parish councils and parish meetings, community forums, citizen’s panels);
- local businesses, and bodies representing businesses (eg chamber of trade);

In addition, Derbyshire Dales District Council consulted with:

- the Council’s elected members
- officers from other teams within the Council – including legal, tourism, arts development, community safety, policy economic development, and leisure.
- neighbouring local authorities;
- other Responsible Authorities – Environmental Health (public nuisance and public safety), Child Protection, Trading Standards, Planning, Health and Safety Executive (HSE); and
- the public, via the website and local libraries.

2.1. When the Policy was first adopted in 2005, there were seven Responsible Authorities named in the legislation. Since 2005 three other Responsible Authorities have been named. These are each Local Authority’s Director of Public Health in England, (the Health Body for Derbyshire Dales is Derbyshire County Council); the Licensing Authority itself; and the Immigration Authority.
2.2. The implementation of the Immigration Act 2016 amended the 2003 Licensing Act and introduced immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017. The intention was to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

2.3. The Council’s policy document does not include procedures for making applications or holding committee hearings as these matters are covered by separate guidance and procedures. All would-be applicants, existing licence-holders and anyone wishing to make a representation in respect of a licence application are provided with.

2.4. There are currently 501 premises licences and club premises certificates, and 1,303 personal licences in force, which have been granted by the Council since 2005.

2.5. In practice, Officers consider that the policy has worked well. This view can be supported by only six applications for having been received for formal reviews of premises licences during the last 15 years. A review is where a licence is referred to a meeting of a Licensing and Appeals Sub-Committee following receipt of complaints or objections which cannot be resolved by other statutory means.

2.6. Also, during the last 15 years there have only been 5 appeals to the Magistrates’ Court against decisions of a Licensing Sub-Committee. In 3 cases the Council’s decision was upheld, in another some of the conditions that had been imposed were amended or substituted, and one appeal was withdrawn.

2.7. Statutory Guidance – Section 182 of the Licensing Act 2003

The statutory guidance for licensing authorities (first issued in July 2004 by the Secretary of State) has been revised several times since, with the latest revision being published in April 2018.

The latest changes are fairly modest and not as significant as expected. Changes of particular interest include clarification on: Entitlement to Work in the UK; Beer Gardens and Outdoor Spaces; Cumulative Impact Assessments; and Appeals.

2.8. The proposed changes to the current Policy are mainly administrative which have been made to keep the document up-to-date. However, it is recognised that the consultation process may reveal issues that have not yet been considered/anticipated. The draft document at Appendix 1 is recommended for consultation.

2.9. It is recommended that the results of the consultation exercise are reported to a future meeting of this Committee with a view to agreeing a final Draft Policy for consideration by the full Council in time for an approved revised Policy to be adopted and republished by January 2021.

2.10. Once adopted the reviewed policy will remain in force for 5 years, but this does not prevent an earlier review of it, if one is considered necessary.

3. RISK ASSESSMENT

3.1. Legal

The Council has a statutory obligation to review and re-publish the Licensing Policy statement every five years. Not to do so could result in the policy being challenged, and if challenged successfully, could result in the Council’s reputation being harmed.
There may be potential for decisions made in determining licensing applications that become the subject of judicial review or appeal. If the Licensing Policy is not credible it may be subject to legal successful challenge. The report is intended to address issues that may give rise to the need for change, and the legal risk is therefore assessed as being low.

The Council’s Statement of Licensing Policy is not only important in setting out the Licensing Authority’s approach to carrying out its duties under the Licensing Act 2003, but it must also be applied by the Magistrates’ Courts on appeal, unless there is good reason to depart from it.

3.2. Financial

There are no financial or other resource implications directly arising from this report. The financial risk is therefore assessed as low.

4. OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5. CONTACT INFORMATION

Eileen Tierney, Licensing Manager, Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

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This Policy will take effect from **JANUARY 2016 2021** for a maximum period of 5 years, and will be kept under review. If you wish to make any comments during this period please contact the Licensing Manager by:

Post : The Licensing Manager  
Regulatory Services  
Derbyshire Dales District Council  
Town Hall  
Matlock  
Derbyshire  
DE4 3NN  

Email : licensing@derbyshiredales.gov.uk
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1 Introduction

1.1 The District of Derbyshire Dales is an area of spectacular countryside, approximately half of which lies within the Peak District National Park. The District is home to approximately 71,000 people living in four main centres of population, Ashbourne, Bakewell, Matlock and Wirksworth, which are all attractive market towns, and the 100 or so smaller villages. Some of the attractions that are located in the District include Chatsworth House, Haddon Hall, Sudbury Hall, The Heights of Abraham, Gulliver’s Kingdom and many picturesque Dales along the Rivers Derwent, Dove, Lathkill and Wye.

1.2 The tourism and hospitality industries contribute greatly to the District’s economy and this is reflected in the wealth and diversity of premises affected by the Licensing Act 2003. At the time that this revised Policy was adopted there were approximately 450 premises licensed for the sale or supply of alcohol, provision of regulated entertainment and the provision of late night refreshment.

1.3 This Licensing Policy Statement is based on the Licensing Act 2003 ("the Act") and is in line with the Guidance issued by the Department of Culture, Media and Sport (DCMS) and the Home Office, under Section 182 of the Act, (latest revision March 2015) April 2018.

1.4 The District Council is the licensing authority under the Act and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences. These licences are required for the sale and / or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. The term “Licensing Authority” has been used throughout this document to describe the functions of the District Council under the Act.

1.5 This Policy sets out the manner in which applications will be considered. Each application will be considered on its individual merits.

1.6 The Policy will not be used to fix the hours during which alcohol may be sold.

1.7 The Policy is not intended to regulate matters provided for in any other legislation. Instead it is intended to complement such regimes as planning, health & safety, fire safety, noise and nuisance control, etc.

1.8 The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities within the District and to promote live music, dance, theatre etc for the wider cultural benefit of the community.

1.9 Before determining the Policy the Licensing Authority must consult:

- Derbyshire Constabulary’s Chief Officer of Police
- Derbyshire Fire and Rescue Service
- persons / bodies representative of local holders of premises licences
- persons / bodies representative of local holders of club premises certificates
- persons / bodies representative of local holders of personal licences
- persons / bodies representative of businesses and residents in the District

1.10 In addition we have consulted bodies such as the Community Safety Partnership and all of the Responsible Authorities listed on pages 14-16.
2 Licensing Objectives

2.1 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the licensing objectives:

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

2.2 These objectives are of equal importance and are the only matters that may be taken into account when determining licensing applications.

2.3 The licensing function is only one method of delivering these objectives. The Licensing Authority will continue to work in partnership with its neighbouring authorities, the police, the fire and rescue service, local businesses, licensees and local people, towards the promotion of the objectives.

2.4 These objectives will be considered when determining applications for any of the licensable activities listed in the Act, and summarised as follows:

- retail sale of alcohol
- supply of alcohol to club members
- provision of regulated entertainment – to the public, to club members, or with a view to profit:
  - a performance of a play
  - an exhibition of a film
  - an indoor sporting event
  - boxing or wrestling entertainment
  - a performance of live music
  - any playing of recorded music
  - a performance of dance
- supply of hot food and/or drink from any premises between 11pm and 5am.

2.5 The licensing authority recognises there is no public health licensing objective and therefore cannot conduct its licensing function specifically with the aim of promoting public health as, the licensing function can only be carried out to promote the four licensing objectives as set out by the Licensing Act 2003. However, the licensing authority believes that public health has much to contribute to licensing and through ensuring the responsible selling of alcohol (by for example preventing drunkenness, restricting access of alcohol to underage persons etc.), this may have a positive impact on reducing a person’s drinking at harmful or hazardous levels.

The licensing authority encourages individual premises to sign up to the Public Health ‘Responsibility Deal’. This encourages businesses and other influential organisations to make a significant contribution to improving public health committing to taking action voluntarily through their responsibilities as employers, as well as through their commercial actions and their community activities. Further Information can be found at: https://responsibilitydeal.dh.gov.uk/
The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health and the other health bodies have unique access to data and evidence not available to other responsible authorities and which may inform licensing decisions, particularly in relation to cumulative impact policies. When such evidence/data is presented it will be considered and where links are made to any of the four licensing objectives it will be taken into account by the licensing authority in reaching its decision.

3 Fundamental Principles

3.1 Licensing is about regulating licensable activities on licensed premises, at qualifying clubs, and at temporary events within the terms of the Act. Any conditions attached to various authorisations will be focused on matters within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. Whether or not incidents can be regarded as in being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. Where there is dispute, the question will ultimately be decided by the Courts.

3.2 In addressing this issue the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working, or engaged in normal activity in the area. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and beyond the direct control of the individual, club or business holding the authorisation. Nevertheless, licensing law does have an important role to play in these matters and the Licensing Authority wishes to use all relevant controls in managing the evening and night-time economy.

4 The Need for Licensed Premises

4.1 “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for the District Council in discharging its licensing functions, or for this Policy. “Need” is a matter for planning committees and for the market.

5 Cumulative Impact

5.1 In some town centres, where the number, type and density of premises selling alcohol on the premises are unusual, serious problems of nuisance and disorder outside or some distance from licensed premises may occur.

5.2 Where there is evidence that such a problem exists the Licensing Authority may adopt a Special Policy relating to cumulative impact.

5.3 The effect of a Special Policy would be that applications for new premises licences or club premises certificates would normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the Special Policy issues in their operating schedules.

5.4 In order to adopt a Special Policy, the Licensing Authority has to take the following steps:
• identification of concern about crime and disorder or public nuisance
• consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so, identifying the area from which problems are arising; or that risk factors are such that the area is reaching a point when a cumulative impact is imminent
• consultation with relevant bodies (as specified in the introduction to this Policy)
• inclusion of the Special Policy in the Licensing Policy
• publication of the Special Policy

5.5 Derbyshire Dales District Council is not proposing to adopt a Special Policy about cumulative impact at this time. The absence of a Special Policy does not prevent any responsible authority or interested party making representations on new applications on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

6 Other Mechanisms for Controlling Cumulative Impact

6.1 Whilst the Licensing Authority does not intend adopting a Special Policy there are other mechanisms that may be used to address behaviour that causes public nuisance, crime or disorder, for example:

• planning controls
• positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.
• the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
• powers of the Licensing Authority to designate parts of the District as places where alcohol may not be consumed publicly
• police enforcement of the general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
• the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
• the confiscation of alcohol from adults and children in designated areas
• police powers to close down instantly for up to 24 hours any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
• the power of the police, other responsible authorities or a resident or business to seek a review of the licence or certificate in question

7 Licensing Hours

7.1 The Licensing Authority will determine licensing hours on the individual merits of each application taking into account the operating schedule and any relevant representations. Longer licensing hours for the sale of alcohol can avoid large concentrations of customers leaving premises at the same time. This is necessary to reduce the friction at late night fast-food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

7.2 The Licensing Authority will not set fixed trading hours within a designated area. This practice is known as ‘zoning’, and experience in Scotland suggests that it may lead to significant movement of people across boundaries resulting in greater disturbance in the streets.

7.3 Applicants should be aware that there are few areas in the District where licensed premises do not have the potential to impact upon residential properties and they will be expected to demonstrate how they will prevent their premises from giving rise to crime, disorder and public nuisance.

7.4 Generally shops, stores and supermarkets will be allowed to sell alcohol for consumption off the premises at any time when they are open for shopping, unless there are very good reasons for restricting these hours. For example, a limitation may be appropriate following police representations in respect of a shop known to be a focus of disorder and disturbance.

8 Children

8.1 This Policy seeks to protect children from physical, moral or psychological harm in line with the licensing objectives. Areas that will give rise to particular concern in respect of children include premises:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with the reputation for underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises (but not for example, the simple presence of a small number of cash prize gaming machines, although applicants will need to ensure that the siting of these machines is such that they minimise the potential to give rise to harm)
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

8.2 It would be unusual for the Licensing Authority to completely prohibit children from having access to premises. A range of alternatives is available for limiting their access where that is necessary in order to protect them from harm:

- limitations on the hours when children may be present
- exclusion of children under certain ages when particular specified activities are taking place
- limitations on parts of premises to which children might be given access
- age limitations (under 18)
• requirements for accompanying adults
• full exclusion of those people under 18 from the premises when any licensable activities are taking place

8.3 The Licensing Authority will not impose any condition which requires the admission of children to any premises.

8.4 The Licensing Authority considers the Competent Body to advise on matters relating to the protection of children from harm to be the Derbyshire Local Safeguarding Children Board. A copy all applications for new licences or major variations will be sent to this Responsible Authority.

8.5 A further measure that should be considered in this context is the implementation of proof of age schemes. The Licensing Authority particularly commends schemes that carry the Proof of Age Standards Scheme (PASS) hologram logo.

8.6. The applicant must comply with the requirements of The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010, which makes proof of age schemes a mandatory condition of any licence to sell alcohol.

9 Children and Cinemas

9.1 Where film exhibitions are held at premises, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification (BBFC), or in specific cases, by the Licensing Authority, itself.

9.2 In addition, all licences or certificates authorising film exhibitions must include a condition restricting the admission of children in accordance with the recommendations given to films by the BBFC or by the Licensing Authority.

10 Integrating Strategies

10.1 The Licensing Authority will ensure the proper integration of this Policy with local crime prevention, planning, transport, equality schemes and cultural strategies, in carrying out its licensing functions, through consultation, liaison and partnership working.

10.2 The Licensing Authority will expect applicants for premises licences and club premises certificates to have taken into account the Licensing Authority’s Strategies when drawing up the operating schedule part of the application.

Crime Prevention

10.3 The Licensing Authority will encourage applicants and existing licence-holders to participate in crime prevention/community safety initiatives for licensed premises, developed with partners; for example, campaigns such as, (but not exclusively), ‘Intoxicated – No Sale’, and ‘Intoxicated – No Entry’, ‘Safe and Responsible’, or similar.

10.4 Where relevant representations are received or where they are suggested by the operating schedule, the Licensing Authority may attach conditions to premises licences and club premises certificates in order to reflect local crime prevention strategies.
Cultural Strategies

10.5 The Licensing Authority will monitor the impact of its licensing function on the provision of regulated entertainment, and particularly live music and dancing. Licensing conditions will only be used to impose restrictions on such events where they are necessary, proportionate and reasonable. Where there is an indication that these events are being deterred by licensing requirements this Policy will be reviewed to investigate how the situation may be reversed.

Transport

10.6 Where concerns are raised about the need to swiftly disperse people from town centres in order to prevent disorder and disturbance, the Licensing Authority will make arrangements to liaise with Derbyshire County Council’s Local Transport Unit, and any other relevant organisations.

Employment, Planning and Building Control

10.7 Arrangements will be made for the Licensing Committee to receive reports on the following, to ensure they are reflected in their considerations:

- the needs of the local economy
- the local employment situation and the need for new investment and employment where appropriate

10.8 In order to avoid duplication and inefficiency the Licensing Authority recognises that applications for licences should not be seen as a re-run of the planning application process and should not cut across planning decisions. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.

10.9 The Licensing & Appeals Committee will, where appropriate, provide regular reports to the Planning Committees so that they may have regard to the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.

Promotion of Equality

10.10 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to promote equality to reflect the change whereby the 2010 Act replaced and expanded on the previous legislation.

11 Duplication

11.1 The Licensing Authority will ensure that in exercising its licensing function it does not duplicate other regulatory regimes, such as planning, pollution control, health & safety etc. eg. legislation governing health and safety at work or fire safety, already places duties on licensees in respect of the safety of employees and the general public.

11.2 Conditions in respect of public safety will only be attached to premises licences and club premises certificates where they are necessary for the promotion of that licensing objective and are not already provided for by other legislation.
12 Conditions

12.1 Mandatory Conditions

The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificates in the circumstances specified.

MANDATORY CONDITION: SUPPLY OF ALCOHOL

(1) No supply of alcohol may be made under the premises licence:
   a. at a time when there is no designated premises supervisor in respect of the premises licence, or
   b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

MANDATORY CONDITION: IRRESPONSIBLE PROMOTIONS

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
   a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
      (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
   b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
   c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
   d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
   e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

MANDATORY CONDITION: FREE TAP WATER

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
MANDATORY CONDITION: PROOF OF AGE SCHEME

(a) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(b) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(c) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
(i) a holographic mark, or
(ii) an ultraviolet feature.

MANDATORY CONDITION: REQUIREMENT TO MAKE SMALL ALCOHOL MEASURES AVAILABLE

The responsible person shall ensure that:-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
   (i) beer or cider: ½ pint;
   (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
   (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION: SALE OF ALCOHOL - DUTY + VAT

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—
   (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
   (b) “permitted price” is the price found by applying the formula—
       \[ P = D + (D \times V) \]
       where—
       (i) \( P \) is the permitted price,
       (ii) \( D \) is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
       (iii) \( V \) is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
   (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
       (i) the holder of the premises licence,
       (ii) the designated premises supervisor (if any) in respect of such a licence, or
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(a).

MANDATORY CONDITION: EXHIBITION OF FILMS

The admission of children to film exhibitions is to be restricted in accordance with film classification recommendations made by the British Board of Film Classification.

MANDATORY CONDITION: DOOR SUPERVISORS

Any individual(s) at the premises carrying out a security activity must be licensed by the Security Industry Authority, as required by section 21 of the Licensing Act 2003.

12.2 Other Conditions

Any conditions that are attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be imposed where they are consistent with an operating schedule or on receipt of relevant representations.

12.3 Any conditions proposed by the applicant in the operating schedule part of the application shall be interpreted in accordance with the applicant’s intention. Standardised (blanket) conditions will be avoided, but the wording of the conditions shall be clear and easy to understand and enforceable.

12.2 Licence conditions will only be imposed where there is a need to promote the licensing objectives.

13 Enforcement

13.1 The Licensing Authority has established an enforcement protocol with Derbyshire Constabulary and other partners on matters relating to licensing. The purpose of the protocol is to ensure the effective deployment of local authority, police and other partner organisations’ staff in the enforcement of licensing law and the inspection of licensed premises.

13.2 Inspection and enforcement activity will be targeted on a risk-assessed basis with high risk and problem premises receiving greater attention, and those premises that are low-risk receiving a ‘lighter touch’.

13.3 Any enforcement action taken by the Licensing Authority will be in accordance with Derbyshire Dales District Council’s Corporate Enforcement Policy and will take into account the principles of the Regulator’s Code, which are available from the District Council’s Licensing Manager.
14 Live Music, Dancing and Theatre

14.1 In its role of implementing its cultural strategies, the Licensing Authority recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community, particularly for children.

14.2 When considering applications for such events the Licensing Authority will carefully balance the cultural needs with the need to promote the licensing objectives before imposing conditions on licences or certificates. As in all cases, conditions may only be imposed where they are consistent with an operating schedule or on receipt of relevant representations.

14.3 The Licensing Authority has obtained premises licences for public spaces within the community in its own name. These areas include parks and recreation grounds, leisure centres and car parks. Performers and entertainers providing only regulated entertainment do not need to obtain a licence or other form of authorisation before using these areas, although they will still need to obtain the permission of the District Council as the premises licence holder.

15 Administration, Exercise and Delegation of Functions

15.1 The powers and duties of the Licensing Authority in respect of licensing may be carried out by the Licensing Committee, by a sub-committee or by officers acting under delegated authority. Many of the licensing functions are administrative in nature and in the interests of speed, efficiency and cost-effectiveness the Licensing Authority supports the principle of delegating routine matters to officer level.

15.2 The table below sets out the delegation of functions and decisions.

<table>
<thead>
<tr>
<th>Matter to be dealt with</th>
<th>Full Committee</th>
<th>Sub Committee</th>
<th>Officers **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application for personal licence</td>
<td></td>
<td>If a police objection</td>
<td>If no objection made</td>
</tr>
<tr>
<td>Application for personal licence with unspent convictions</td>
<td></td>
<td>All cases</td>
<td></td>
</tr>
<tr>
<td>Application for premises licence/club premises certificate</td>
<td></td>
<td>If a relevant representation made</td>
<td>If no relevant representation made</td>
</tr>
<tr>
<td>Application for provisional statement</td>
<td></td>
<td>If a relevant representation made</td>
<td>If no relevant representation made</td>
</tr>
<tr>
<td>Application (full) to vary premises licence/club premises certificate</td>
<td></td>
<td>If a relevant representation made</td>
<td>If no relevant representation made</td>
</tr>
<tr>
<td>Application for Minor Variation of premises licence/club premises certificate</td>
<td></td>
<td></td>
<td>All cases</td>
</tr>
<tr>
<td>Matter to be dealt with</td>
<td>Full Committee</td>
<td>Sub Committee</td>
<td>Officers **</td>
</tr>
<tr>
<td>------------------------------------------------------------</td>
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<tr>
<td>Application to vary designated personal licence holder</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
</tr>
<tr>
<td>Request to be removed as designated personal licence holder</td>
<td></td>
<td></td>
<td>All cases</td>
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<tr>
<td>Application for transfer of premises licence</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
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<tr>
<td>Application for interim authority</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
</tr>
<tr>
<td>Application to review premises licence/club premises certificate</td>
<td></td>
<td></td>
<td>All cases</td>
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<tr>
<td>Decision on whether a complaint is irrelevant, frivolous, vexatious etc</td>
<td></td>
<td></td>
<td>All cases</td>
</tr>
<tr>
<td>Decision to object when local authority is a consultee and not the relevant authority considering the application</td>
<td></td>
<td></td>
<td>All cases</td>
</tr>
<tr>
<td>Determination of a Police or Environmental Health objection to a temporary event notice</td>
<td></td>
<td></td>
<td>All cases</td>
</tr>
</tbody>
</table>

** Officers to be delegated by Derbyshire Dales District Council to carry out this responsibility are: the Head of Regulatory Services and the Licensing Manager.

16 Responsible Authorities

16.1 The Responsible Authorities are the public bodies that must be fully notified of applications, and are entitled to make representations to the Licensing Authority in relation to the application for grant, variation, or review of a premises licence or club premises certificate.

16.2 The Licensing Authority will include information and advice prepared by the Responsible Authorities in application packs for licences, and encourages applicants to seek early advice from the Responsible Authorities when making applications.

See following table for contact details for the Responsible Authorities for Derbyshire Dales District:
### LICENSING ACT 2003 - RESPONSIBLE AUTHORITIES FOR DERBYSHIRE DALES

<table>
<thead>
<tr>
<th>Definition in Licensing Act 2003</th>
<th>Responsible Authority for Derbyshire Dales</th>
<th>Contact Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. ‘the relevant licensing authority and any other licensing authority in whose area part of the premises is situated’</td>
<td>Licensing Manager</td>
<td>Tel: 01629 761313</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:licensing@derbyshiredales.gov.uk">licensing@derbyshiredales.gov.uk</a></td>
<td>Derbyshire Dales District Council</td>
</tr>
<tr>
<td></td>
<td>NB: please do not send extra copies to DDDC – we only need the original full application plus fee. If you are unsure if the premises is in more than one licensing authority’s area, please contact this Council's Licensing Team.</td>
<td></td>
</tr>
<tr>
<td>2. ‘the chief officer of police for any police area in which the premises are situated’</td>
<td>Derbyshire Constabulary</td>
<td>Tel: 01298 762052</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:BDiv.Licensing@Derbyshire.PNN.Police.uk">BDiv.Licensing@Derbyshire.PNN.Police.uk</a></td>
<td>Divisional Licensing Manager</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Buxton Police Headquarters</td>
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<td></td>
<td></td>
<td>Silverlands</td>
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<td></td>
<td></td>
<td>Buxton</td>
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<tr>
<td></td>
<td></td>
<td>Derbyshire SK17 6QJ</td>
</tr>
<tr>
<td>3. ‘the fire authority for any area in which the premises are situated’</td>
<td>Derbyshire Fire and Rescue Service</td>
<td>Tel: 01298 22620</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:west_area_admins@derbys-fire.gov.uk">west_area_admins@derbys-fire.gov.uk</a></td>
<td>Derbyshire SK17 9RZ</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Buxton</td>
</tr>
<tr>
<td>4. ‘the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health’</td>
<td>Principal Officer - Environmental Health</td>
<td>Tel: 01629 761212</td>
</tr>
<tr>
<td></td>
<td>FAO (Public Health &amp; Housing)</td>
<td>Derbyshire Dales District Council</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:envhealth@derbyshiredales.gov.uk">envhealth@derbyshiredales.gov.uk</a></td>
<td>Town Hall</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Matlock</td>
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<td></td>
<td></td>
<td>Derbyshire DE4 3NN</td>
</tr>
<tr>
<td>5. ‘the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated’</td>
<td>Principal Officer - Environmental Health</td>
<td>Tel: 01629 761212</td>
</tr>
<tr>
<td></td>
<td>FAO (Commercial Section)</td>
<td>Derbyshire Dales District Council</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:envhealth@derbyshiredales.gov.uk">envhealth@derbyshiredales.gov.uk</a></td>
<td>Town Hall</td>
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<td>Matlock</td>
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<td></td>
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<td>Derbyshire DE4 3NN</td>
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</tbody>
</table>

**OR**
Enforcement responsibility for the Health and Safety at Work etc Act 1974 may rest either with the local authority or with the Health and Safety Executive. Further advice regarding which should be obtained from your safety advisor, or to check which authority you need to serve your application on, please contact the Licensing Section at the Council – 01629 761313.

Please note:

The responsibility for planning issues is divided between 2 authorities in the Derbyshire Dales. The District Council is the planning authority for the southern area of the district and the Peak District National Park Authority covers the northern area. To check which planning authority you need to serve your application on please contact the Licensing Section at the Council – 01629 761313.

7. ‘a body which:
   (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm,
   (ii) and it is recognised by the licensing authority for that area for the purposes of this’ section as being competent to advise it on such matters’.
8. ‘The local weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985)’.

   Derbyshire County Council Trading
   Standards Division
   Email: trading.standards@derbyshire.gov.uk
   Tel: 01629 580000 Ext 6166

9. ‘The Director of Public Health or Local Health Board for any area in which the premises are situated’.

   Derbyshire Public Health
   Email: trading.standards@derbyshire.gov.uk
   Tel: 01629 536180

Add Home Office as a Responsible Authority
## CONSULTEES TO THE ORIGINAL LICENSING POLICY

<table>
<thead>
<tr>
<th>Derbyshire Constabulary</th>
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<tbody>
<tr>
<td>Derbyshire Fire and Rescue Service</td>
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<tr>
<td>Derbyshire Local Safeguarding Children Board</td>
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<tr>
<td>Health &amp; Safety Executive</td>
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<tr>
<td><strong>Derbyshire Dales District Council:</strong></td>
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<tr>
<td>Derbyshire County Primary Care Trust</td>
</tr>
<tr>
<td>Peak District National Park Authority</td>
</tr>
<tr>
<td>Neighbouring Local Authorities</td>
</tr>
<tr>
<td>Derbyshire Rural Community Council</td>
</tr>
<tr>
<td>Town and Parish Councils and Parish Meetings</td>
</tr>
<tr>
<td><strong>Existing holders of Premises Licences and Club Premises Certificates in Derbyshire Dales</strong></td>
</tr>
<tr>
<td><strong>Licensing Solicitors</strong></td>
</tr>
<tr>
<td><strong>Crime Partnerships</strong></td>
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<tr>
<td><strong>Musicians’ Union</strong></td>
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<tr>
<td><strong>Equity</strong></td>
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<tr>
<td><strong>Arts Council for England</strong></td>
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<tr>
<td><strong>Association of Licensed Multiple Retailers</strong></td>
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<tr>
<td><strong>Breweries and Pub Companies</strong></td>
</tr>
<tr>
<td><strong>Campaign for Real Ale</strong></td>
</tr>
<tr>
<td><strong>Chambers of Trade</strong></td>
</tr>
<tr>
<td><strong>British Institute of Innkeepers</strong></td>
</tr>
<tr>
<td><strong>Other Interested Parties and Trade Associations</strong></td>
</tr>
<tr>
<td><strong>Members of the Public</strong></td>
</tr>
</tbody>
</table>
PROPOSED POLICY ON STREET COLLECTIONS AND HOUSE TO HOUSE COLLECTIONS (CHARITY COLLECTIONS)

PURPOSE OF REPORT

The report seeks authority to carry out a consultation exercise on the draft Policy in relation to Street Collections and House to House Collections, (for charitable and good causes).

RECOMMENDATIONS

1) That the Draft Policy in Appendix 1, relating to Street Collections and House to House Collections (Charity Collections), is approved for consultation purposes.

2) That the results of the consultation exercise are reported back to a future meeting of this Committee for consideration when approval would be sought to adopt a final Policy.

WARDS AFFECTED

All Wards

STRATEGIC LINK

An effective licensing regime contributes towards the District Council’s priority of a thriving district, particularly in relation to business growth and job creation. Effective enforcement of this regime contributes to our vision of a distinctive rural environment with towns and villages that offer a high quality of life.

1. The Legislation

1.1 The District Council is the Licensing Authority for Charitable Street Collections under Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 and Charitable House to House Collections under the House to House Collections Act 1939.

1.2 The Council has made regulations, which require the promoter to obtain a permit from the Council before a collection can take place.

1.3 The Council usually limits collections to one per day in the same location/area, so that the public are not inundated with requests for donations from a number of charities, and to ensure that as many charities as possible have a reasonable and equal opportunity to raise funds for their good cause.

1.4 There are no restrictions currently in place regarding the number of collections the same Promoter can carry out during the same calendar year. Applications are processed on a first-come-first-served basis.
1.5 The Council is entitled to refuse an application for a house to house collection if the percentage of proceeds donated to a charitable cause, after paying expenses, is considered to be insufficient. Generally, a minimum of 80% of the value of the proceeds of a collection should be donated to the charitable cause.

1.6 In the case of House to House and Street Collections, the Promoter has to complete an income/expenditure statement and submit it to the Council no later than a month after the collection.

1.7 Any charities that have been issued with an Exemption Order by the Cabinet Office under section 3 of the House to House Collection Act 1939, do not need to apply for a House to House Licence but they do inform the Council so that they can be put on a register in case we receive any enquiries or complaints.

1.8 During the 2019 calendar year, 88 Street Collection Permits and 8 House to House Collection Licences were granted to allow collections in towns and villages across the district.

1.9 Officer Comment

The function of administering House to House and Street Collections was transferred to the Licensing Team in July 2019.

1.10 Regulation of these activities has previously been undertaken based on custom and practice, and whilst the informal ‘rules’ have generally been accepted and applied, it is believed that the adoption of a formal Policy setting out the Council’s requirements and expectations in relation to both these functions would be beneficial to the Council, applicants and members of the Public, and would ensure consistency in decision making and transparency.

1.11 It is suggested that if the Committee approves the Draft Policy attached to this report in Appendix 1, it should be used as a starting point for a 12-week consultation exercise carried out with all stakeholders and interested parties. It would be useful to obtain their views on the draft Policy to formulate any changes prior to a final policy being considered for adoption. Consultees could include any current or past permit/licence holders during the last 2 years; any organisations/bodies that represent the interests of charitable organisations; the Police, Trading Standards, Parish Councils and the General Public.

1.12 Methods of consultation could include letter or email, Council Notice-boards and the Council’s website - using social media to inform the public of the consultation and to direct them to the website.

2 RISK ASSESSMENT

2.1 Legal

Street collections are governed by the Police, Factories, etc (Miscellaneous Provisions) Act 1916. This Act allows the Council to make regulations with respect to the places where and the conditions under which collections may be permitted.

The Council has made regulations, which require the promoter to obtain a permit from the Council before the collection can take place.
House to House collections are regulated by the House to House Collections Act 1939. This Act requires the promoter to obtain a licence from the Council before a collection can be carried out. The Council must grant a licence on application unless one of the grounds set out in the Act for refusing the licence apply.

There is no requirement to have a Charitable Collections Policy; however, it is good practice for the Council, as a licensing authority, to have a policy, which provides the framework for consistent decision-making.

The legal risk is therefore assessed as low.

2.2 Financial

The Council cannot make a charge for the issue of either a Street Collection permit or House to House Collection licence. As such, the cost of administering the scheme cannot be recovered.

The financial implications associated with the recommendation of carrying out a public consultation on the draft Charity Collection Policy are minimal in terms of staff time and can be financed from the existing licensing budget.

The financial risk is therefore assessed as low.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 CONTACT INFORMATION

Eileen Tierney, Licensing Manager, Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

<table>
<thead>
<tr>
<th>Description</th>
<th>Date</th>
<th>File</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Collection Regulations</td>
<td>-</td>
<td>RS/ ET</td>
</tr>
</tbody>
</table>

6 ATTACHMENT

| Appendix 1                                      | Draft Policy on House to House and Street Collections (Charity Collections) |
This Policy will take effect from XXXXX 2021 for a maximum period of 3 years, and will be kept under review. If you wish to make any comments during this period please contact the Licensing Manager in writing by:

Email : licensing@derbyshiredales.gov.uk

Post : The Licensing Manager  
       Regulatory Services  
       Derbyshire Dales District Council  
       Town Hall  
       Matlock  
       Derbyshire  
       DE4 3NN
Introduction

1.1 Derbyshire Dales District Council regulates charitable collections in the street and also house to house charitable collections. Some matters relating to these collections are at the discretion of the Council and it is important that the Council has a policy regarding these matters.

1.2 This policy is designed to ensure that:
   a) applications are made in a timely way, neither too early nor too late,
   b) collecting organisations each get a fair opportunity to make collections, and
   c) members of the public are not subject to an excessive number of requests for donations.

2 General Policy Matters

2.1 Sharing of Information

   The Council will share with other enforcement bodies information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so. In particular, personal information will only be disclosed in accordance with data protection legislation. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings. Where applicable, it will be under the relevant Information Sharing Protocol.

2.2 Policy Application

   This document contains the policies adopted by Derbyshire Dales District Council for the grant of permits and licences. These policies will normally be applied in every case but where there are exceptional or unusual circumstances then these policies and conditions may be departed from. Any departure from these policies will only be as approved by the Head of Regulatory Services.

2.3 Enforcement

   Failure to comply with legislative requirements is an offence. In determining what enforcement action to pursue in respect of offences, the individual circumstances will be taken into consideration, together with the Council’s enforcement policies and other national guidance, such as the Crown Prosecutor's Code of Practice.
3 Street Collections

3.1 Introduction

The Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act 1972, empowers local authorities to regulate collections made in the street.

A collection means a collection or a sale of articles for the benefit of charitable or other purposes.

3.2 Policy

All collections shall be carried out in accordance with the regulations made by the Council. The following policies are in addition to those regulations.

1) Collections may not be carried out in any public street or public place, apart from at an open air meeting, unless the promoter has obtained a permit from the Council. This includes collections as part of processions. This does not prevent collections taking place on land which is not a public place but some land that is privately owned to which the public generally have access will constitute a public place.

2) All applications shall be made at least one calendar month prior to the proposed start date of the collection. Applications received after this time will not generally be considered unless there are exceptional circumstances. For example: where a major charitable need has suddenly arisen, which could not have been foreseen, and which requires urgent assistance e.g. Children in Need Rickshaw Challenge.

3) Applications for permits or waivers will not be considered more than twelve months in advance of the proposed date of the start date of the collection.

4) Only one charity shall be allowed to collect within any one town centre on any one day. Applications may be made for several town centres for the same period – but a separate application must be completed for each one.

5) The most popular areas in which collections are usually applied for are Bakewell, Matlock, Ashbourne, Wirksworth, Tideswell and Matlock Bath. Other towns and villages may be allowed.

6) Permits to collect shall only be granted for periods not exceeding seven consecutive days with a period of seven clear days between permits.

7) Permits will not be granted to any organisation which
   a) has any direct political allegiance or affiliation or
   b) is involved in, or advocates i) any form of direct action which intimidates or threatens any person, or group or person, or ii) which involves or encourages any illegal activity.

8) Where applications are received from more than one organisation for the same day, or for periods which overlap, then a permit will only be granted to one organisation. The organisation which shall be granted a permit shall be determined on a first-come-first-served basis.
However, preference will be given to local charities or charities with a local connection where applications have been made but not yet granted for the same or an overlapping period.

Exceptions to this rule shall be for the following national charities whose collections are linked to specific dates in the year to whom preference shall be given: Children in Need, Royal British Legion Poppy Appeal, Round Tables, Lions and Rotary Clubs. In addition, local events that will receive preference include Shrovetide Committee, Matlock Bath Raft Event and various village carnivals.

10) Authority is delegated to the Head of Regulatory Services, to limit permits to such streets or public places or such parts thereof as is considered appropriate.

11) Applications to collect to raise funds for the purpose of financing personal expeditions shall not be permitted, even where a proportion of the funds raised are donated to charity.

3.3 Applications and Fees

The current legislation does not make any provision for any fees to be payable for a permit.

3.4 Waivers and consents

The Council’s Regulations make allowances for the Regulations to be departed from in some case under specified circumstances. Any request to depart from the Regulations shall be made as detailed above.

3.5 Regulations

Applicants for permits and existing permit-holders shall comply with the Council’s Regulations which are included at Appendix 1.

Any person who acts in contravention of these Regulations is guilty of an offence which on conviction is punishable by a fine not exceeding Level One (currently £200).

3.6 Appeals

There is no formal right of appeal against any decision made by the Council to grant or refuse an application for a street collection permit.

However, in the interest of fairness and transparency, if an organisation wishes to lodge a request for a decision to be reviewed then the matter should be put in writing to the Head of Regulatory Services, who will review the decision.
4 House to House Collections

4.1 Introduction

Public charitable collections conducted on a house-to-house basis are currently regulated by the House to House Collections Act 1939 and the House to House Collections Regulations 1947.

Collections for a charitable purpose may not be made unless the provisions of the Act and the Regulations are complied with and a licence from the Council has been obtained; otherwise a criminal offence is being committed. Anyone acting as a collector where the promoter is not licensed, would also be committing a criminal offence. Offences are punishable by penalties ranging from a minimum fine of £200 up to six months imprisonment and a fine of up to £1,000.

4.2 Exemptions

The Minister for the Cabinet Office is responsible for a national exemption order scheme for house-to-house collections under the current law.

National exemption orders are generally available to organisations which have obtained house to house collection licences in at least 70-100 local authority licensing areas for the two preceding years. There are currently (as of 201) 45 national exemption order holders.

Special provisions relate to collections which are local to an area and which are to take place over a short period of time. In such circumstances the Police are able to issue a local exemption certificate as an alternative to the Council issuing a licence.

Selling goods door-to-door on the basis that the proceeds will go to charity constitutes a house to house collection. The Council has no power to attach conditions to a licence, nor to limit the number of house to house collections taking place at any one time nor to restrict them to a particular locality.

4.3 Policy

1) Amount devoted to charity

The grounds for refusal of an application for a licence by the Council, which are detailed in the Act, include where the total amount likely to be applied for charitable purposes as a result of the collection is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).

For the purposes of assessing this, the Council will not generally grant a licence unless the total amount applied for charitable purposes is a) likely to be equal to or exceed 80% of the total value of money likely to be received or b) where goods are collected or sold 80% of the profit derived. In judging this, evidence of the amount devoted to charitable purposes as a result of previous collections, both within or outside the District, will be taken into account.
Where information becomes available after a licence has been granted, that the percentage requirements have not been met, then the licence shall normally be revoked.

2) Fit and proper person

The grounds of refusal include where the applicant is not a fit and proper person by virtue of having been convicted of certain offences.

The Council’s Policy shall be that generally anyone convicted of one of the specified offences shall not be granted a licence or shall have their licence revoked.

3) Exercising due diligence

Where the applicant for or licence-holder fails to exercise due diligence in ensuring that collectors authorised by him/her were or are fit and proper persons, then the Council may refuse to grant the licence or may revoke the existing licence.

The Council’s Policy is that, where the Council is satisfied that due care or diligence has not been exercised, a licence will be refused or revoked.

4) Additional information

Where the applicant or the holder of a licence refuses or neglects to provide the Council with such information that the Council considers reasonable to require, then the Council will normally refuse the application or will revoke an existing licence.

5) Late applications

Applications must be made at least one month before the month in which it is proposed to carry out the collection. This period is specified in the legislation. Late applications may be considered but only where there are special reasons for doing so.

The Council’s Policy is that late applications will not generally be considered unless there are exceptional circumstances. An example of this would be where a national/international disaster that could not be foreseen, where emergency aid/relief is required eg. Tsunami Relief Aid.

4.4 Applications and Fees

The current legislation does not make any provision for any fees to be payable for a licence.

Once a licence has been granted the collection promoter must ensure that their collectors are issued with prescribed certificates of authority and badges, blank copies of which must be obtained from HM Stationery Office.

It is an offence for any collector to collect without being in possession of the required signed authority and badge.

Following the collection, a form of statement must be completed and submitted to the Council within one month of the collection. The Statement must include details of income and expenditure, and the amount donated to the charity or good cause.
Some collections are carried out by regional or national charitable organisations under the authority of a Cabinet Office Exemption, and do not need a licence from the Council, so will not be required to submit statements to the Council.

4.5 Appeals

There is a right of appeal to the Minister for the Cabinet Office against the decision of the Council to refuse an organisation a licence to hold a house to house collection or to revoke such a licence.

An appeal must be lodged within 14 days of the date on which notice of refusal or revocation was given to the applicant or licence-holder.
STREET COLLECTIONS - REGULATIONS

1. No collection of money or sale of any article shall be made in any street or public place within the District of Derbyshire Dales unless the person, society, committee or other body of persons responsible for such collection or sale shall have obtained from the Derbyshire Dales District Council a permit for such collection or sale.

2. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection or sale.

   The licensing authority may reduce the period of one such month if satisfied that there are special reasons for so doing.

3. No collection or sale shall be made except upon the day and between the hours stated in the permit.

4. The licensing authority may in granting a permit limit a collection or sale to such streets or public places or such parts thereof as they think fit.

5. No person may assist or take part in any collection or sale without the written authority of the person, society, committee or other body of persons to whom a permit has been granted. Every person so authorised shall produce such written authority forthwith for inspection by a duly authorised officer of the licensing authority or any police officer on demand.

6. No collection or sale shall be made in any part of the carriageway of any street, which has a footway, provided that the licensing authority may, if it thinks fit, allow a collection or sale to take place on the said carriageway where such a collection or sale has been authorised to be held in connection with a procession.

7. No collection or sale shall be made in any street or public place to the obstruction or annoyance of any person in such a street or public place.

8. No collector or vendor shall importune any person to the annoyance of such persons.

9. Any person acting as a collector or vendor in a street or public place shall occupy a stationary position at some place on the footway. Not more than 2 persons shall act as collectors or vendors at the same place, and no person shall collect money or sell articles within 25 metres of the place where any other person is collecting or selling.

   The licensing authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection or sale, which has been authorised to be held in connection with a procession.

10. No person under the age of 16 years shall act or be permitted to act as a collector or vendor.

11. Every collector or vendor shall carry and present to all contributors or purchasers for the reception of money contributions, a box or other receptacle securely closed and sealed in such a way as to prevent the same being opened without such seal being broken, and all money shall be immediately placed into such box or receptacle.
All such boxes or receptacles shall be numbered consecutively. Every collector or vendor shall deliver his boxes, other receptacles, with seals unbroken, to one of the persons responsible for the proper application of the money received.

12. A collector or vendor shall not carry or use any collecting box, receptacle or tray, which does not bear, displayed prominently thereon the name of the fund for which the collection or sale is being made, nor any box or the receptacle which is not duly numbered.

13. No payment or reward shall be made or given either directly or indirectly, to any other person connected with the promotion or conduct of a collection or sale for or in respect of services connected therewith, except such payments as may have been approved by the authority which granted the permit.

14. (1) Within one month after the date of any collection or sale, the person, society, committee or other body of persons responsible therefore shall forward to the Secretary and Solicitor for the information of the licensing authority a statement in the form set out in the Schedule to the Regulations, certified by the auditor of the society or by some independent responsible person, with vouchers showing in detail the amount received and the expenses incurred in connection with such collection or sale, and shall, if required by the licensing authority, satisfy them as to the due proper application of the proceeds of the collection or sale.

The society, committee or other body shall also, within the same period, at their own expense and after audit, publish in such newspapers as the licensing authority may direct, a short statement showing the name of the person, society, committee or other body of persons responsible for the collection or sale, the amount collected, the amount of expenses and the amount distributed to the charity or fund.

(2) The licensing authority may, if satisfied there are special reasons for doing:-

(a) extend the period of one month referred to in Paragraph (1) above and

(b) agree to accept from the person, society, committee or other body of persons required to forward a statement to the appropriate officer under Paragraph (1) above, a statement which although not in the form set out in the Schedule to these Regulations is in a like or similar form, and where there has been agreement and an acceptance, Paragraph (1) above shall be deemed to have been complied with.

15. These regulations shall not apply:-

(i) in respect of a collection taken at a meeting in the open air;

(ii) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade and for the purpose of earning a livelihood and no representation is made by or on behalf of the seller that any part of the proceeds of sale will be devoted to any charitable purpose.

16. The maximum fine for breach of any of these regulations is £200, Level 1 under Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 as amended.