



Stephanie Peacock MP
Minister for Sport, Media, Civil Society and Youth
Department for Culture, Media and Sport
100 Parliament Street
London SW1A 2BQ

ps.peacock@dcms.gov.uk
cc: special.advisers@dcms.gov.uk
cc: secretary.statesoffice@dcms.gov.uk
cc: DCMS team

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PROTECTING THE PUBLIC AND HIGH STREETS FROM UNLICENSED CHARITABLE STREET COLLECTIONS

Dear Minister

We are writing to you on behalf of the following organisations to explain why current legislative provisions fail to give sufficient powers to control on-street charitable collections by unlicensed operators:

- Local Government Association, the national membership body for councils in England (LGA)
- Metropolitan Police, on behalf of The Mayor's Office for Policing and Crime (MOPAC)
- City of London Corporation
- Institute of Licensing, incorporating the National Association of Licensing Enforcement Officers (NALEO)

Background

Street collections are governed by the Police, Factories, & c. (Miscellaneous Provisions) Act 1916 ('the Act').

The Act regulates charitable collections in any public street or public place. Licensing Authorities, typically local councils (except in London where the licensing authorities are the Mayor's Office for Policing and Crime – delegated to the Metropolitan Police – and the City of London Corporation) are empowered under Section 5 of the Act to permit collections made in 'any street or public place' for 'charitable or other purposes'.

The Act was intended to offer the public a degree of protection against dishonest appeals and to prevent public nuisance, at a time when most charity collections were for cash. Today, local authorities have seen an uplift in unauthorised collections on their streets. These are usually conducted by non-charities like community interest companies, where collectors approach people on the streets and collect money both

through conventional cash collection box methods and modern-day methods with the growth of contactless collections. The Act fails to support licensing authorities in enforcing illegal activity and to safeguard the integrity of charitable fundraising for the public or the majority of charitable organisations which wish to comply with the law.

Why the law is not fit for purpose

Enforcement action against those who break the law is cost prohibitive. Manchester City Council recently took an organisation, which operates nationally and declared a turnover of over £3million, to court, and successfully secured a guilty verdict.

However, the court was only able to award the council £550 in costs against the £1414 costs in officers' time (excluding legal costs). Similarly, because of an early guilty plea, the £200 fine was reduced by a third to £133 per offence.

The lack of deterrent in the current powers is further shown in that the organisation was on the street collecting money the day after the conviction, again without a licence. Many local authorities consider the cost of investigating and enforcing the Act to be disproportionate to any result, and penalties under the Act are not viewed as a deterrent by those who knowingly break the law.

For example, Leeds City Council has brought prosecutions under the Act for unlawful charitable street collections, which saw low penalties imposed by the courts. One defendant was convicted on five charges but was only fined £125, which was £25 for each charge (with costs and a £30 victims' surcharge). In another case, the defendants were found guilty in their absence and fined £200 (with costs and a £15 victims' surcharge). The time taken to investigate alleged unlawful charitable street collections, the subsequent formal investigations, and the legal costs incurred by instructing bodies can be considerable, and the seriousness of the matter is often not reflected in the sentencing outcomes available or applied by the court, which can only impose a fine in accordance within the maximum penalty set by Parliament.

The current enforcement environment has a negative impact on high streets and public spaces across England, to the detriment of public enjoyment of such spaces, and a hindrance to the growth and prosperity of struggling high streets. It also adversely affects the large number of charities who wish to collect lawfully and safely, but are overwhelmed and driven out by unlawful collectors.

The following recommendations would not add regulatory burdens on legitimate collectors but would streamline and improve enforcement of those who break the law.

How to make the law fit for purpose

Section 5(1) 1916 Act provides for, on summary conviction, a level 1 fine (currently £200, maximum), which is the lowest level of fine available.

However, it is not uncommon, where a person (the 'promoter'/'collector') is found guilty of an offence under the Act, to be fined considerably less than the maximum available fine (as in the examples above) or to receive a conditional discharge. Even

where the maximum £200 fine is given, it is the experience of those organisations supporting this letter that it serves as no deterrent to unscrupulous operators.

It is, therefore, requested that the current level 1 fine be increased to a level 5 fine, to include an option of custodial sentence.

Amending the Act to incorporate Fixed Penalty Notices (FPNs) as an option for dealing with unlicensed street collections would greatly assist enforcement bodies in using their limited resources in a much more efficient and effective way. This would greatly improve on the sole existing route by way of prosecution through the courts, which is a lengthy process, a significant drain on officer hours, as well as a considerable financial burden on the public purse.

The Act should be amended to include FPNs for the disposal of formal actions for illegal street collections. This would not only obviate the need for lengthy investigations, considerable officer hours spent gathering evidence (including issuing of warning letters and formal interviews of suspected offenders) and preparing prosecution packages; but would act as a real and effective deterrent for would-be offenders, who would personally bear any financial penalty.

The Act should further be extended to include offences by officers of a body corporate. This enhancement will align it with other regulatory legislation and complement FPNs (which are targeted at the collectors themselves) by providing real consequences and deterrent for the controlling minds of companies employing those who unlawfully collect on the streets. It is also a useful tool to combat the propensity for companies to dissolve and avoid legal action.

We are wholly committed and motivated to make sure the streets are safe for the public and a place where responsible charitable fundraising can grow and thrive, but the current law acts as an impediment to do so. We urge you to commit to a review of the law so it is fit for purpose for modern-day fundraising practices, and would be happy to work with you to formulate the changes outlined above.

Yours sincerely

Heather Kidd

CIlr Heather Kidd MBE
Chair, Safer & Stronger Communities Board
Local Government Association

Ian Graham

Ian Graham
Chief Licensing Officer
Metropolitan Police

Paul Adams

Paul Adams
Chief Executive Officer
Institute of Licensing

Gavin Stedman

Gavin Stedman
Port Health & Public Protection Director
City of London Corporation

[sent by email]