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|  |  | PART 2 | ITEM NO. |
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| REPORT OF THE LEAD MEMBER FOR ENVIRONMENTTO LICENSING REGULATORY PANEL. |
| TO THE LICENSING SUB COMMITTEE THURSDAY 28TH APRIL 2011  |
| **TITLE:** |  Report re House to House Collections |
| **RECOMMENDATIONS:** | Members read the attached report for their information |
| **EXECUTIVE SUMMARY** |  |
| **BACKGROUND DOCUMENTS (Available for public inspection)** |  |
| **ASSESSMENT OF RISK** | Not Applicable |
| **SOURCE OF FUNDING** | n/a |
| **LEGAL ADVICE OBTAINED** | Not Applicable |
| **FINANCIAL ADVICE OBTAINED** | n/a |
| **CONTACT OFFICER** | Philip Morton. Principal Officer Licensing and Environment Crime |
| **WARD (S) TO WHICH REPORT RELATES** | All Wards |
| **KEY COUNCIL POLICIES** | Not Applicable |
| **DETAILS (Continued Over)** |  |

**HOUSE TO HOUSE COLLECTIONS**

**House to House collections are regulated by** two powers;

1. a **collection licence** - issued by the local council, **or**
2. a **national Exemption Order** - issued by central government.

These rules are laid down by the **House to House Collections Act 1939**

**Is the collection 'non-charitable' or ‘charitable’?**

* ***Non*-charitable** collections are *not* regulated
- typically these collections are carried out by businesses, for private profit.
* **Charitable** collections are regulated - in other words they need a licence or exemption.
- The word 'charitable' here means that the collectors say (or imply) that the proceeds go to a charity or a similar good cause.
* In practice it can be difficult to decide whether some clothing collection leaflets/bags are 'charitable' or not.

### 'Does it need a collection licence?'

There's widespread misunderstanding of the law relating to this.

Partly because of this, misleading collections are widespread - and genuine charities (like the NSPCC and RSPCA) are losing £ millions annually.

### Charitable or *non-*charitable?

House-to-house collections (of clothes or cash) are controlled by the **House to House Collections Act 1939. T**here is no mention of words like *'charity'* or *'charitable'* in the name of this Act.  However, in the small-print of the Act it says it only applies to **'charitable'** collections.

So, '**non**-charitable' collections are **not** covered by the Act.  The phrase 'Non-charitable' here means commercial collections done solely for private profit - by (say) 'Bloggs Clothing Exports Ltd'.

The two examples above are clear-cut - there's no room for doubt.  It's black-and-white.

However, in practice, it's not so simple.  This system offers a **loophole for unscrupulous clothing collectors**.  They can exploit the law by targeting the 'grey area' in between, straddling the two categories.  They produce **misleading** leaflets and bags which give the impression of being **charitable** (which means they get more clothes), but in the small-print they say they're commercial collectors - so they can argue it’s ***non*-charitable**.

These misleading collections make up about **50%** of collections in the UK at present.  A substantial proportion of the public think these collections are charitable - so they give generously (clothes, towels, bedding etc).  In the UK, over £10 million is lost (each year) by genuine charities because of this.

### Design of the misleading collection leaflets and bags

*These collectors use vague wording (and images) to give the impression* it's charitable, such as:

* 'Third world clothing collection', 'Help us to help others', 'Please help those who really need your support', 'Thank you for your kindness', 'Please donate', 'Clothes needed urgently'

However - in small-print at the bottom of the leaflet - it says something like:

* 'Many thanks from SOS Help Ltd - no. 5938256'

Often, people think the number quoted is a registered charity number.  But usually it's not - it's a registered *company* number - or a VAT number - or a waste licence number - or it's even made up.  This is all part of the scam.

### Taking action against misleading leaflets and bags - prosecution

The crucial question here is whether a misleading leaflet is sufficiently misleading to break the law - is it 'materially misleading'?

In particular (in relation to the 1939 Act) - is it a **'charitable' collection**?  Obviously, the collector will argue it's not.  The acid test is to ask:

"What would happen if the local council used the 1939 Act to prosecute the collector for carrying out an unlicensed charitable collection?"

The case would be heard in the local magistrate’s court.  But what would the magistrates decide?

The collectors couldn't deny they'd been collecting clothes.

So the issue would focus on the impression given by the leaflet or bag.

### Bogus collections - a separate issue

Either they mention the word 'charity' or they refer to a named charity - but they're a scam.  The charity doesn't exist, or the collector doesn't give them any of the proceeds.

Unlike hybrid collections, they're very easy to prosecute - once you spot them.  There's 'no grey area'.

A recent prosecution mentioned at previous panels is an example of this where a bogus collector was convicted of theft and received a jail sentence

## Local council collection licences *versus* national Exemption Orders

The reason for introducing this was to simplify the collections procedure for larger national charities.  These charities only have to go through a one-off process of applying for a **national Exemption Order** (from central government).

To get an Exemption Order, a charity has to satisfy various stringent criteria.  For example it must have been collecting in at least 70 council areas (i.e. about 25% of England and Wales).

Once a charity has an Exemption Order, it no longer needs to apply for collection licences from local councils. The **benefits** of this are;

* **The charity** - It reduces the amount of administrative work carried out by the charity.  This reduces their costs - thus increasing the net proceeds raised.
* **Local councils** - It reduces their workload (and costs).

However, the charity is required to **notify** the licensing department of each council before it carries out a collection in their area - so the council knows what's going on.

## Who's got an Exemption Order?

 **43 charities** hold exemption orders at present. Most of them are national, large, well-established and well-known - such as **NSPCC**, **Oxfam**, **Red-Cross**, **RSPCA** and the **Salvation Army**.  Around half of them are based in London but collect nationally.

There's an up-to-date official copy on the website of the [Cabinet Office](http://www.cabinetoffice.gov.uk/media/368293/holders-of-orders-of-exemptions.pdf)

## How the 'List of national Exemption Orders' can help stop misleading clothing collections

Knowing which charities are on the List is crucial when you suspect that a 'charitable' clothing collection is misleading or bogus - because you need to find out if it's 'authorised'.

'**Authorised**' here means that the collection has **either**:

1. a **collection licence** - from the local council licensing department, **or**
2. a **national Exemption Order** - from the Cabinet Office.

To check if a collection is authorised (in other words if it's legitimate) - you have to ask *two* questions:

1. Has the local council licensing department issued a **licence** for the collection?
2. Does the collector have a **national Exemption Order**?

If the answer to *both* these questions is 'no' - you know the collection is *not* authorised (and so it's illegal).

Most people won't want to give clothes to the collectors, and

* The collection can be investigated by the local council - and they can take action to stop it, including [enforcement and prosecution](http://www.charitybags.org.uk/charitable-collections-licensing-monitoring-and-enforcement.shtml).