



GUIDANCE NOTES for PUBLIC CHARITABLE COLLECTION LICENCES

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with public charitable collection licences introduced by the Civic Government (Scotland) Act 1982 and the Public Charitable Collection (Scotland) Regulations 1984. While every effort has been made to ensure accuracy these notes are for general guidance only and do not constitute legal advice. It is the responsibility of applicants and licence holders to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the schedule attached to your licence and any policy/guidance notes issued by the Council.

In general terms, the Civic Government (Scotland) Act 1982 provides that any person who wishes to organise a public charitable collection must obtain a permit from The Moray Council and the Council is empowered to attach to it such conditions relating to local circumstances as it thinks fit. Section 119 of the Act deals with public charitable collections. If the Council decides to refuse, withdraw or vary any permission the organiser may appeal to the Sheriff. The Secretary of State for Scotland can exempt major national charities from the need to obtain such a permit, but they are still required to give the Council, in whose areas they intend to collect, notice (3 months) of their intention to do so with a view to ensuring a proper allocation of collection dates.

The Secretary of State for Scotland has also made Regulations (The Public Charitable Collections (Scotland) Regulations 1984) governing the procedural details of dealing with applications for charitable collections and the duties of collectors and promoters. The regulations cover matters which will apply throughout the country with purely local requirements being covered by such conditions which The Moray Council may attach to any permission granted.

The holding of a collection without a permit is a criminal offence and on conviction a fine not exceeding £1,000 may be imposed.

Definition

The type of collection which requires a permit is defined as a collection from the public of money for charitable purposes taken either in a public place or by means of visits from place to place (i.e. house to house) and whether given by the public for a consideration or not. (Charitable purposes are defined by the Act as being for any charitable, benevolent or philanthropic nature).

Exemptions

There is no need to obtain a permit in respect of collections to be carried out in the course of a public meeting or to a collection by means of an unattended box, etc. which is kept in a fixed position in a public place.

The Secretary of State for Scotland if he is satisfied that a person engages in charitable purposes throughout the whole or part of Scotland may exempt that person from the requirement to obtain a permit from The Moray Council. (Unless stated by the Secretary of State such a person will however require to give three months' notice of his intention to organise a collection within the District).

Permit Conditions

In giving permission for a collection Moray Council have the power in conjunction with such statutory conditions as may apply to impose conditions as they think fit in view of local circumstances. These conditions can include specification of the date, time or frequency of the collection, area, form of collection boxes, containers, etc. and generally any matters relating to the local circumstances and the conduct of the collectors.

The Regulations

The following paragraphs outline the regulations which have been made by the Secretary of State regarding the duties and responsibilities of Organisers, Collectors, etc. in terms of Statutory Instrument 1984 No. 565 (s.63) (copies of the regulations are available from Her Majesty's Stationery Office (www.hmsso.gov.uk))

It is, of course, the responsibility of organisers and collectors to comply with these regulations and the following notes are intended for general guidance only and not to be considered exhaustive of the matter.

Duties of the Organiser

- 1. To appoint an independent responsible person or a qualified accountant to act as auditor.*
- 2. To exercise due diligence to ensure that any person involved in the collection is a fit and proper person.*
- 3. To use due diligence to ensure that any person involved in the collection complies with the legal requirements and conditions of the permit.*
- 4. To issue to each collector a certificate of authority (this certificate shall give the following information:- name and address of organiser, name and address of collector, name of charity, collectors area, period of authorisation, signature of collector, signature of the organiser or his agent.*
- 5. To issue a supply of envelopes (if envelope collection)*
- 6. To issue a numbered collection box (if not an envelope collection)*
- 7. To record the name and address of each collector against the number of envelopes issued or the number of boxes issued.*
- 8. To use due diligence to ensure the collectors are fourteen years or over (street collections) or over sixteen years of age (house to house collections)*

9. *To use due diligence to ensure collectors are aware of their obligations*

Duties of Collectors

1. *A collector shall not collect unless he possesses the appropriate certificate of authority and displays a badge bearing the name and the fund or organisation which is to benefit from the collection.*
2. *The collector shall produce his certificate on demand.*
3. *In envelope collections only contributions in a sealed envelope can be accepted.*
4. *In box collections only contributions placed by the donor in the box can be accepted.*
5. *No collectors shall importune any person to his annoyance or remain at the door of any house if requested to leave by the occupants. A collector shall return his certificate of authority and his collecting boxes or envelopes unopened to the organiser or his agent on demand.*

Opening of Collecting Boxes and Envelopes

All collecting boxes or envelopes shall be opened by the organiser (or his agent) in the presence of another responsible person or if delivered unopened to a bank by an official of the bank.

In an envelope collection the number of envelopes returned by each collector and the total amount of money therein shall be noted and this information conveyed to the organiser. In the case of a collecting box the number of the box and the amount of money therein shall be noted and this information conveyed to the organiser.

Accounts

*In general terms the organiser shall within **one month** of the last date of the permission submit to Moray Council accounts relating to the collection.*

The accounts shall disclose particulars of:-

1. *The amount collected in the collection.*
2. *Any other amount attributable to the collection.*
3. *All expenses incurred in connection with the collection.*
4. *The name of the funds or organisation which have benefited from the collection and the amount which each has been paid from the net proceeds.*

The accounts shall be accompanied by the statements from the organiser and auditor in standard form concerning the conduct of the collection etc.

Moray Council can request additional information regarding the number of envelopes issued and returned by each collector and the total amount in the envelopes or alternatively, the amount collected in each collecting box.

The organiser must retain all vouchers, receipts and papers relating to the collection for a period of two years to be exhibited on demand by the Council.

Advertisement

The Regulations require the organiser to publish within **one month** of submitting accounts a summary of them in one or more newspapers circulating in the area or areas where permission was granted to collect. This does not apply if the collection took place only in the Moray area. Where a collection has been undertaken within a single District, Moray Council may waive the requirement to advertise subject to the Council making a summary of the accounts available for inspection by members of the public at their offices for a reasonable time. Moray Council has opted to do so.

PUBLIC CHARITABLE COLLECTIONS
SUBMISSION OF ACCOUNTS

1. Details Required

The accounts shall disclose particulars of:-

- (a) The amount collected in the collection
- (b) Any other amount attributable to the collection
- (c) All expenses incurred in connection with the collection
- (d) The name of the fund(s) or organisation(s) which have benefited from the collection and the amount which has been paid from the net proceeds. Where more than one fund or organisation has benefited the amount each has been paid requires to be specified.

2. Organisers Certificate

The accounts must be accompanied by a certificate signed by the organiser regarding the operation of the collection. The exact wording which must be used is as follows:-

SAMPLE CERTIFICATE

I certify, in relation to the collection(s) undertaken by me on behalf of (insert the name of the funds or organisations which have benefited from the collections) on (insert date(s)) that –

- (i) I have complied with the requirements of regulations 4 and 10 of the Public Charitable Collections (Scotland) Regulations 1984 dealing with the issuing and opening of envelopes and collection boxes and the recording of their contents.
- (ii) The above accounts are a true account of the expense and proceeds of the collection(s) and the payment of the net proceeds of the collection(s) to the named beneficiaries.

Date(Signed).....

3. Auditors Report

The accounts to be submitted must be accompanied by an Auditors Report. (An auditor is defined by the Regulations as an independent responsible person or a qualified accountant). The auditor is appointed by the organiser on receiving permission to organise the collection. The wording to be used by the auditor is as specified in the Regulations and is as follows:-

REPORT

I/We have examined the above accounts of the collection(s) undertaken on behalf of (insert the name of the funds or organisations which have benefited from the collections) on (insert date(s)) and have obtained all the information and explanations which I/We consider necessary.

In my/our opinion –

- (i) *The organiser and his agents have complied with the requirements of regulations 4 and 10 of the Public Charitable Collections (Scotland) Regulations 1984 dealing with the issuing and opening of envelopes and collecting boxes and the recording of their contents;*
- (ii) *The above accounts fairly present the recorded expenses and proceeds of the collection(s) and the payment of the net proceeds of the collection(s) to the named beneficiaries.*

Date (Signed).....

Qualifications.....

GUIDANCE NOTES – PUBLIC CHARITABLE COLLECTIONS **THE APPLICATION FORM**

The application form is split into 4 different sections

- A. *Applicant Details*
- B. *Collection Details*
- C. *Criminal Convictions*
- D. *Residence Outside the UK*

You must answer all of the questions and supply details where relevant otherwise your application will be returned to you. Your application cannot be processed until all the information is included in the form.

A. PERSONAL DETAILS

It is essential that your personal details are supplied on the application form so that necessary police checks can be undertaken swiftly and so your application can be processed as quickly as possible.

B. COLLECTION DETAILS

It is essential that this section is completed fully.

C. CRIMINAL CONVICTIONS

This section asks whether you or anyone named in the application have **ever** been convicted of **any** crime or offence. Please note that this includes any fixed penalties or driving convictions.

Although you are not required to disclose any convictions which are “spent” in terms of the Rehabilitation of Offenders Act 1974, the Police may raise an objection on the basis of any spent convictions you may have and the licensing authority may thereafter decide to consider these if they are determined to be relevant to your application.

If you think a conviction is spent you should seek independent legal advice. Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

D. RESIDENCE OUTSIDE THE UK

If you are making an application you, or anyone named in the application must provide evidence of your criminal history:

- **If you were born in the UK** but have lived in any other country within the ten years prior to your application for a continuous period of twelve months or more you must provide a Criminal Record Check for all those countries for the relevant period(s)
- **If you were born outwith the UK** you must provide a Criminal Record Check from your country of origin for the time of residence there IF it was in the last ten years, unless you left that country without reaching the criminal age of responsibility. You must also provide a Criminal Record Check from any other country in which you have resided for a continuous period of twelve months or more in the ten years prior to application.

In all cases, the Criminal Record Checks provided must

- have been obtained within the six months immediately prior to submitting your application; and
- be translated into English; and
- be verified by the relevant UK-based Embassy or High Commission

Process for obtaining Criminal Record Checks -

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Note: *The certificate must be produced before the licence can be granted. Whilst it is desirable for the applicant to produce the certificate with the application, it is not a strict requirement. This is so any applicant having difficulties will not be disadvantaged by delays to processing the application. At the applicants choosing, the application can be accepted as valid without the convictions evidence but the evidence should be provided as soon as possible. In this way the convictions evidence will be a check rather than a validation. Applicants should still note, however, that the licence cannot be granted without the evidence having been produced. Therefore if the application is approaching the 9 month time limit without the evidence being produced, the application may be refused for failure to comply with administrative provisions.*

If you are experiencing difficulties in obtaining a certificate then please contact the licensing team to discuss your options. It may be possible to accept alternative evidence, for example: evidence of checks having been carried out by another government body; affidavits; or character references.

In cases where it is not possible to provide any satisfactory evidence, the application will be referred to the Licensing Committee for a decision. Therefore the application may be delayed pending the outcome of a hearing.

GENERAL

You require to **sign** and **date** the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form you should submit it to:-

Legal and Democratic Services
Moray Council
High Street
Elgin
IV30 1BX

Your application will be copied to Police Scotland for them to review. If no objection is made on your application within 28 days the Council will proceed to issue your permit. If a representation or objection is received, your application will be referred to the Licensing Committee of the Council where elected Members will consider the matter. You will be given an opportunity to attend this meeting and put forward your case in support of your application.

If you have any queries please e-mail licensing@moray.gov.uk or contact us on 01343 563027.