



Policy on measures to control street scene activities in Cheltenham

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Introduction

General Information

The aim of this policy is to detail procedures and policies that will apply to charitable collections, consent to obstruct the public highway across the whole of the borough of Cheltenham and other street scene activities as referenced in this policy document. Street trading activity forms part of a separate policy and is therefore not within scope of this policy document unless otherwise stated in this policy.

Policy aims and objectives:

- Clear & transparent policy governing all activities within scope of this policy document
- To enable the Authority to manage all activities in scope of this policy document in order to provide effective control measures.
- To ensure activities in scope of this policy meet the required quality standards, pose no risk to public health, safety & protection and do not prejudice the Authority's efforts to improve the image, perception and attractiveness of the Town.
- To avoid duplication with other statutory provisions and the Authority's commitment to work in partnership with other enforcement agencies.
- To support the Authority's climate emergency declaration and work associated with this.

Complaints against the Service

The Authority has a corporate complaints procedure, copies of which are available from the Authority's offices or on the Authority's website www.cheltenham.gov.uk.

Social Inclusion/Equalities

This policy will be applied in a manner that is consistent with the Authority's equalities policies and duties.

Implementation and Review

The Authority will keep this policy under review and will consult where appropriate on proposed revisions. It will in any event review this policy at least every three years.

From the date of effect the policy overrides and supersedes all existing policies or arrangement in relation to consent to place an object on the highway and charitable collection permits. Existing consent holders will, upon renewal or when submitting a subsequent application, come under the provisions of this policy.

Enforcement

The Authority will enforce the provisions of this policy in line with its Corporate Enforcement Policy. This policy is accessible on the Authority's website.

Data Protection

The Authority has published data protection statements for the authorisations within scope of this policy document. Please refer to the Authority's website for more information: <https://www.cheltenham.gov.uk/your-data>.

Climate Emergency

The Authority has declared a climate emergency. This policy will consider this in this policy and implement measures to support the Authority's declaration and associated outcomes.

Part 1 - Charitable Collections

Introduction

This part of the policy document forms the Authority's charitable collections policy that will apply to Street, House to House & Direct Debit Collection activities in the borough of Cheltenham.

Street Collections

1. Framework

1.1 Definitions of terms used in this Part

Within this part the following definitions apply:

The Council or Authority: Cheltenham Borough Council

Borough: The Borough of Cheltenham

Permit: Street Collection Permit

Charity: Is any organisation or body that
a) is established for charitable purposes only, and
b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

Charitable purpose: Means any charitable, benevolent or philanthropic purpose that includes the following

- a) the prevention or relief of poverty;
- b) the advancement of education;
- c) the advancement of religion
- d) the advancement of health or the saving of lives;
- e) the advancement of citizenship or community development;
- f) the advancement of the arts, culture, heritage or science;
- g) the advancement of amateur sport;
- h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- i) the advancement of environmental protection or improvement;
- j) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- k) the advancement of animal welfare;

- l) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.

Promoter(s):	a person or organisation who causes others to act as collectors.
Collection:	a collection of money or a sale of articles for the benefit of Charitable or other purposes.
National Charity:	Charities that are registered to operate throughout England and Wales as defined in its governing document regardless of whether the charity has a local office.
Town Centre:	Core Commercial Area as outlined in the "Cheltenham Borough Local Plan" Adopted 20 July 2020.

1.2 Legislation

The licensing of street collections is regulated by the Charities Act 2006, which regulates collections of money or sales of articles for charitable or other purposes in streets and public places. The Police, Factories, & c. (Miscellaneous Provisions) Act 1916 gives district councils powers to write regulations and policies to control street collections.

The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a permit. It is a criminal offence to conduct a collection in any street or public place within the borough without first obtaining such a permit from the Authority.

2. Application Procedure

2.1 Submitting an Application

An application for a permit must be made to the Authority in writing on the prescribed application form provided no later than 2 weeks before the proposed collection date.

Permit application forms:

- may be downloaded or made online from the Authority's website, or
- are obtainable from the Authority's Licensing Section.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of street collection permits approved or refused (other than within the borough's area);
- (c) a copy of the organisation's most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Authority;

- (e) for transitory collections, details of the proposed routes must be provided with the application; and
- (f) statement of due diligence.

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

2.2 Determination of application

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

The legislation does not include statutory criteria for the approval or rejection of a permit request. This is a matter for the Authority's discretion. This policy reflects the wide discretion given to the Authority enabling it to grant/decline/limit permits on various grounds that are not specific within the legislation and regulations.

The Authority reserves the right to make more detailed enquiries about an application and the proposed collection in certain circumstances.

Enquiries may be made to Gloucestershire Constabulary and/or the Charity Commission for comment/investigation prior to consideration.

The Authority may also consult with other internal departments. Where the application for a permit includes a street procession or placing a structure or vehicle on the street/highway, or where the proposed collection relates to the sale of articles in a street/public place, permission should be sought in advance from the relevant Authority.

There are no statutory grounds for refusing an application for permits. However, the Council will refuse the application if it considers that the collections:

1. Are not for "charitable or other purposes", and/or
2. Contravene the provisions of this policy, legislation and/or regulations.

In addition, the Authority can refuse any application for any of the following reasons:

1. To limit the number of collections;
2. If too high a proportion of the proceeds are likely to be spent on expenses;
3. If inaccurate information was provided on the licence application;
4. If the promoter or any other person involved has been convicted of certain criminal offences, in particular offences of dishonesty e.g. theft, blackmail or fraud etc.; and/or
5. Once issued, a licence may be revoked if it is believed the objectives are or could be compromised.

2.2.2 Form of Statement/Returns Form

Attention is drawn to section 16 of the regulations which sets out the procedure for submission of a statement of income and expenditure (certified by the applicant and either an accountant or an independent person of good standing acceptable to the Authority) etc.

All items required under this regulation must be submitted within one month of the date of collection and it is essential that this time scale be adhered to. Failure to comply may prejudice any future applications.

3. Policy Principles, Aims and Objectives

This section outlines the policies the Authority will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied and where and how often an organisation may make a street collection in the borough.

In particular, the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Authority to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Authority commitment to work in partnership with other enforcement agencies.

3.1 Allocation of street collection days

The above is subject to the special arrangements that apply to Christmas collections (3.4), Cheltenham Festival (in March annually) collections (3.5), collections on behalf of national charities (3.6).

The Authority operates a diary booking system on a “first come first served” basis for the allocation of street collection date(s) in order to ensure that all charities have equal access to their preferred collection dates. No guarantee will be given that a charitable organisation’s preferred date(s) will be allocated to that organisation. Where an organisation’s preferred date(s) cannot be granted, alternative dates may be suggested where practicable.

The Authority will normally only permit a maximum of one collection in the town centre per day although collection applications for other areas in the borough away from the town centre will be considered at the Authority’s discretion.

3.2 Transitory Collections

Transitory collections, i.e. those whose collections pass through the borough, will be given permits subject to their route not coinciding with a permit already granted. These events are normally sponsored walks, street processions, bed pushes or cycle rides etc.

3.3 Emergency & Special Collections

In exceptional circumstances, such as an emergency appeal or a national special event, consideration may be given to the grant of additional permits or reduced notice time, at the discretion of the Authority.

3.4 Christmas Town Centre Street Collections

In addition to the requirements set out above, the Authority will specify additional requirements for collection applications for the months of November (from the 15th onwards) and December (“Christmas collections”) in the town centre.

The Authority will not accept applications for Christmas collections until the first week of September every year.

In order to permit as many Christmas collections as possible, the Authority may allocate applicants either a morning slot (8am to 1pm) or an afternoon slot (1pm to 5pm).

Where an applicant's preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

Collection applications for other areas in the borough over December, away from the town centre, will be considered on merits and at Authority's discretion.

3.5 Cheltenham Festival collections

In addition to the requirements set out above, the Authority will also specify additional requirements for collection applications for March every year during the Cheltenham Festival ("race week collections").

The Authority will not accept applications for race week collections until the first week of October every year.

Where the applicants preferred date(s) cannot be granted, alternative dates, time and/or locations may be suggested where practicable.

Collection applications for other areas in the Borough over the Festival week, away from the town centre, will be considered at the Authority's discretion.

3.6 Collections on behalf of National Charities

The Authority recognises that in certain cases a number of different individuals may want to have a collection for the same charity throughout any calendar year. These are normally national charities such as Help for Heroes, Children in Need, Comic Relief etc.

In cases like these, the Authority will not limit collections based on the charity benefiting from the collection (in accordance with 3.1 above). Instead, individual promoters or collectors will only be permitted one collection per calendar year for each benefiting charity.

3.7 Animals

The use of animals in conjunction with street collections is discouraged and will only be permitted in conjunction with animal charities.

House to House Collections

1. Framework

1.1 Definitions of terms used in this Part

Within the terms of Cheltenham Borough Council's Licensing of House to House Collections, the following definitions apply:

Permit:	House to House Collection Permit
Collection:	An appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property and the word "collector" shall be construed accordingly.
The Council or Authority:	Cheltenham Borough Council
Borough:	The Borough of Cheltenham
Charity:	Means any organisation or body that a) is established for charitable purposes only, and b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.
Charitable purpose:	Means any charitable, benevolent or philanthropic purpose that includes the following a) the prevention or relief of poverty; b) the advancement of education; c) the advancement of religion d) the advancement of health or the saving of lives; e) the advancement of citizenship or community development; f) the advancement of the arts, culture, heritage or science; g) the advancement of amateur sport; h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity; i) the advancement of environmental protection or improvement; l) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; k) the advancement of animal welfare; n) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services.

Promoter(s): a person or organisation who causes others to act as collectors.

Town Centre: Core Commercial Area as outlined in the “Cheltenham Borough Local Plan” Adopted 20 July 2020.

1.2 Legislation

House to House Collections are regulated by the House Collections Act 1939 and the House to House Collections Regulations 1947.

2. Application Procedure

2.1 Submitting an Application

An application for a permit must be made to the Authority in writing on the prescribed application form provided not later than two weeks before the proposed collection date.

Permit application forms:

- may be downloaded or made online from the Authority’s website, or
- are obtainable from the Authority’s Licensing Section.

The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Authority can grant a permit, it needs to have as much information as possible about the charity, its promoters and collectors.

The following will be required to be submitted with the application:

- (a) the aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- (b) details of collection permits approved or refused (other than within the borough’s area);
- (c) a copy of the organisation’s most recently audited accounts;
- (d) if the application is made on behalf of a charity a letter of authorisation; any other relevant information requested by the Authority; (e) statement of due diligence.

2.2 Determination of application

Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in an invalid application and the application and documents will be returned to the applicant.

2.2.2 Exemptions

Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales, and is committed to promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain permits from the Licensing Authority, as respects all collections for that purpose in such localities as may be described in the Order.

If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is being, or proposed to be, made is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a Certificate in the prescribed form; and where a Certificate is so granted, a permit from the Licensing Authority is not required and the provisions of the Regulations shall not apply to a collection made in conformity with such Certificate.

Charities that benefit from a national exemption order made by the Secretary of State, although not needing a permit from the Authority, still have to notify the Authority when they are going to fundraise in the borough.

3. Policy Principles

This section outlines the policies the Authority will apply when making decisions on applications for permits. In particular, it explains how the House to House regulations are to be applied and where and how often an organisation may make a House to House collection in the borough.

In particular, the policy aims to promote the following aims and objectives in reference to charitable collections:

- To have a clear & transparent policy governing charitable collections in the Borough.
- To enable the Authority to effectively regulate all charitable collections.
- To ensure that collections are genuinely charitable/not for profit in nature.
- To avoid duplication with other statutory provisions and the Authority's commitment to work in partnership with other enforcement agencies.

3.1 Permitted Duration and Frequency of Collections

The Authority will restrict the frequency and period collections can take place in the borough.

A collection can only run for a maximum period of one month. Only two collections are permitted annually in the borough for each charity.

If an application is made for a period in excess of the maximum period permitted above, the application will be returned to the applicant as invalid.

An amended application can be submitted for reconsideration.

Part 2C - Direct Debits

Collections made by means of visits from house to house are governed by the House to House Collections Act 1939 and the House to House Collections Regulations 1947 (as amended). The legal definition of 'collection' is an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property. This means that any person or organisation who wish to do house to house direct debit fundraising will need to obtain a permit. The term 'house' also includes a place of business.

All other forms of direct debit collections are not regulated in law but the Authority has entered into an agreement with the Institute of Fundraising (IoF) to control all other direct debit collections in the borough.

Under the agreement, the IoF is responsible for booking all collections in the borough and dealing with all complaints received in respect of direct debit collections in the borough.

Part 2 – Permission to obstruct the public highway

1. Introduction

This part of the policy sets out the framework for decision making and associated processes when administering applications relating to permission to obstruct the public highway.

This policy seeks to ensure the safety of all users of the public highway through the regulation of obstructions, which can be placed on the public highway or carriageway.

1.1 Legislation

Consent for objects to obstruct the public highway is controlled in accordance with the provisions contained in the Highways Act 1980.

1.2 Scope

This policy covers non-fixed or temporary objects that obstruct the footway or carriageway. It does not include objects placed on private forecourts or within trading pitches that are regulated by the Street Trading legislation.

The Authority has entered into agreement with Gloucestershire County Council to control obstructions placed on the highway in the Borough as defined by the agency agreement. Under this agreement, the Authority is empowered to control, amongst others, the provision of amenities on the highways as specified under Part VIIA of the Highways Act 1980.

Consent for certain objects/structures to be placed on the public highway such as skips and scaffolding remains the responsibility of Gloucestershire County Council and does therefore not fall within the scope of this policy.

1.3 Definitions of terms used in this Part

Highway:	A highway shall be understood to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.
Object(s):	Includes any or all of the objects that is covered in the scope of this policy.
Consent:	Objects on the Highway Consent.
The Council or Authority:	The Borough Council of Cheltenham
Town Centre:	Core Commercial Area as outlined in the

Town: The Borough of Cheltenham.

1.4 Licensing Process & Delegation of Functions

Permissions to obstruct the public highway will be administered in accordance with the Authority’s scheme of delegation available on the Authority’s website.

2. Application Procedure

2.1 Submitting an Application

An applicant for an initial new consent should give a minimum of at least 35 working days’ notice of the application.

When an application is received, it is initially checked to see if all of the relevant information required is complete and all supporting documentation has been submitted.

Application forms:

- may be downloaded or made online from the Authority’s website, or
- are obtainable from the Authority’s Licensing Section.

Written applications should be marked for the attention of Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham GL50 9SA.

The following will be required to be submitted with the application:

- (a) A completed and signed application form.
- (b) A scaled plan that shows where the proposed trading location relation to the extent of any or all boundaries of the nearby buildings, the width of footpath available, any permanent structures and, if applicable, the location of the pitch in relation to the edge of the road. The plan must include all measurements.
- (c) Colour photographs of the proposed object (Where the proposed object has not been constructed or purchased, accurate and to scale detailed sketches must be supplied. If this information is not supplied the application will not be accepted.)
- (d) A non-refundable administration fee (see current fee sheet). If the consent is granted, the consent fee must be paid in full within 5 working days from the date the consent is granted. Failure to pay the remainder of the licence fee within the require timeframe, without prior agreement from the licensing section, will result in an invalid application.
- (e) Insurer’s certificate with Public Liability Cover of no less than £5,000,000.

Applicants who submit an incomplete application will be contacted and informed of this and the application may be returned to the applicant for resubmission.

2.2 Determination of application

Applications for objects to be placed on the highway which do not comply with this policy

(see “Conditions of Consent (page 21) & the “Revised Outdoor Advertising Protocol A” at Appendix E) will normally be refused under the Authority’s scheme of delegation unless exceptional circumstances exist. The onus will be on the applicant to make the case for exceptional circumstances.

2.2.1 Consultation

Before a consent is granted the Authority will carry out a consultation process for 28 days (starting on the working day after the application was made in full to the licensing section) with owners and/or occupiers of any premises appearing to the Authority to be likely to be materially affected and other agencies including (but not limited to):

- (a) Gloucestershire Highways
- (b) Environmental Health Department
- (c) Gloucestershire Constabulary
- (d) Cheltenham Business Improvement District
- (e) Built Environment
- (f) Any other person(s) or bodies the Authority deems relevant

Where valid objections have been made, the application may be referred to the authority’s Licensing Committee for determination.

For information on the committee process, please refer to the Licensing Committee’s adopted probity guide.

2.2.2 Subsequent Applications

Consents are issued for a period of up to one year. Applicants should submit a subsequent application at least one month before the expiry of their current consent if they wish to continue to place the object on the highway.

3. Policy Principles, Aims and Objectives

This section outlines the policies the Authority will apply when making decisions on applications for consents.

In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway
- To enable the Authority to manage all objects placed on the highway in order to provide effective control measures
- To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway
- To avoid duplication with other statutory provisions and the Authority’s commitment to work in partnership with other enforcement agencies

3.1 Public Highway and Private Land

The Authority is responsible for regulating certain objects/structures that are placed on a public highway causing an obstruction.

At common law, a highway is defined to mean all roads, bridges, carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements *over which there exists a public right of passage, that is to say a right for all Her Majesty's subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.*

Where such uncertainty exist, the test whether an object/structure is placed on a highway (as opposed to private land) is whether there is a public right of passage where, at any time, members of the public can freely and at their will to pass and repass without let or hindrance, whether they do so or not is immaterial.

Therefore, if the proposed location is an area where any member of the public can pass over without hindrance, that area is likely to be considered highway and will for that reason fall within the Authority's remit and jurisdiction.

In light of the above and for the purpose of licensing under the Highways Act, it is also immaterial whether the particular location is designated as private on, for example, a lease, whether the particular highway is privately maintained or situated under an overhang etc.

The only exception would be areas where that particular location has been designated as private under the Highways Act and the appropriate signage is on display.

A highway can be maintained either at the expense of the taxpayer or privately. Where the highway in question is privately maintained, the Authority will not charge a consent fee although the non-refundable application fee will still apply.

Each situation will be determined on individual merits and this policy does not seek to provide an exhaustive list of areas and roads that are privately maintained public highway or private.

The licensing section has access to the county's highway register and can advise on the status of any highway.

3.2 'A' Boards

In setting the policy principles relating to 'A' boards, the Authority seeks to strike a balanced approach between promoting the Authority's priorities, in particular strengthening the borough's economy by assisting and promoting local businesses but at the same time ensuring the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.

To this end the Authority will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below and complying with the "Revised Outdoor Advertising Protocol A" at Appendix E.

Conditions of Consent

The Conditions of Consent are subject to the Revised Outdoor Advertising Protocol attached at **Appendix E** of this policy.

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.
- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.
- (d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.
- (e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*
- (f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.
- (g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*
- (h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*
- (i) The 'A' board must relate to the trade of the premises.
- (j) The 'A' board must be constructed in such a way that it does not have any moving parts *(i.e. rotating or swinging 'A' boards)*.
- (k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

3.3 Tables & Chairs

The Authority wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town. To this end, the Authority will look favourably on applications by operators in appropriate locations to put tables and chairs on the pavement outside their premises.

Consent to place tables and chairs on the highway will only be granted for the consumption of food and drink, provided they are in association with a business operating from nearby premises.

Consent to place tables and chairs on the highway will be subject to the use of canvas barriers to cordon off the area where the tables and chairs are placed on the highway.

For health and safety reasons, the Council will not permit glass top tables.

Where consent has been issued for tables and chairs to be placed on the highway the Authority may permit, within reason, other objects to be placed inside the area that has been cordoned off with barriers. This is subject to the provisions of this policy, that the additional objects have been listed on the application form and indicated on the supporting documents, where applicable.

The Authority requires a minimum of 1.8m (6ft) to remain obstructed, measured between the edge of the pavement and edge of barriers.

3.4 Other Objects

Objects not specifically referenced in this policy will be dealt with on individual merits.

3.5 Goods displayed on the pavement

Certain traders, particularly grocers and florists, seek to put goods on display outside of their premises. This can enhance the vitality and vibrancy of the town, and is generally acceptable by virtue of Paragraph 1(2)(e)(ii), Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provided that:

- (a) The object/structure is placed directly outside, and only directly outside, the front of the premises in question,
- (b) The goods on display form part of the business of the premises;
- (c) The object/structure does not obstruct the highway,
- (d) The pavement is left clean and tidy after each close of trading.

4. Enforcement

The Authority will undertake enforcement action in relation to objects placed on, and obstructing, the highway in accordance with the principles set out in its Corporate Enforcement Policy.

Specifically in relation to objects and structures placed on the highway without consent the Authority have removal powers under section 143 of the Highways Act 1980.

Under this section, the Authority will serve a removal notice on the person having control or possession of the structure to remove it within such time as may be specified in the notice. Should the person having control or possession of the structure fail to adhere to the notice, the Authority may take action to remove the structure and recover the expenses reasonably incurred in so.

The Authority may also seek to prosecute person(s) having control or possession of the structure where the circumstances deems this appropriate and in the public interest.

Appendix A – Street Collection Regulations

1. In these Regulations, unless the context otherwise requires –

“collection” means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word “collector” shall be construed accordingly;
“promoter” means a person who causes others to act as collectors;
“the licensing Authority” means Cheltenham Borough Council;
“permit” means a permit for a collection;
“contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;
“collecting box” means a box or other receptacle for the reception of money from contributors.
2. No collection shall be made in any street or public place within Cheltenham, unless a promoter shall have obtained from the licensing Authority a permit.
3. Application for a permit shall be made in writing not later than 2 weeks before the date on which it is proposed to make the collection. The licensing Authority may reduce the period if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The licensing Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. No person may assist or take part in any collection without the written Authority of a promoter.

Any person authorised under the above paragraph shall produce such written Authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing Authority or any constable.
7. No collection 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 to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.

10. While collecting –

- (a) a collector shall remain stationary; and
- (b) a collector or two collectors together shall not be nearer to another collector than 25 metres:

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

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.

- 12.
- (1) Every collector shall carry a collecting box.
 - (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them from being opened without the seal being broken.
 - (3) All money received by a collector from contributions shall immediately be placed in a collecting box.
 - (4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.

13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon, the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.

- 14.
- (1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person.
 - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
 - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.

- 15.
- (1) No payment shall be made to any collector.
 - (2) No payment shall be made out of the proceeds of a collection, whether directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the licensing Authority.

- 16.
- (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the licensing Authority –
 - (a) a statement in the form set out in the Schedule of these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
 - (b) a list of the collectors;

- (c) a list of the amounts contained in each collecting box; and shall, if required by the licensing Authority, satisfy it as to the proper application of the proceeds of the collection.
- (2) The licensing Authority may, if satisfied, there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
- (3) For the purposes of this Regulations “a qualified accountant” means a member of one or more of the following bodies:-

The Institute of Chartered Accountants in England and Wales;
The Institute of Chartered Accountants of Scotland;
The Institute of Chartered Accountants in Ireland; The
Association of Certified Accountants.

- 17. These Regulations shall not apply –
 - (a) in respect of a collection taken at a meeting in the open air; or
 - (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
- 18. Any person who acts in contravention of any of these regulations, shall be liable on summary conviction to a fine not exceeding level 1, or in the case of a second or subsequent offence not exceeding level 2.

Appendix B – House to House Regulations

House to House Collections Act, 1939 House to House Collection Regulations, 1947

Responsibility of promoters as respects collectors

1. Every promoter of a collection shall exercise all due diligence to:
 - a) Secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
 - b) Secure compliance on the part of persons so authorised with the provisions of these regulations.

Certificates of Authority, badges, collecting boxes and receipt books

2. No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person:
 - a) A prescribed certificate of Authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
 - b) A prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection, and
 - c) If money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of their receipt.
3. Every promoter of a collection shall exercise all due diligence to secure:
 - a) That no prescribed certificate of Authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it was issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
 - b) That every prescribed certificate of Authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
4. In the case of a collection in respect of which a licence has been granted:
 - a) Every prescribed certificate of Authority shall be given on a form obtained from Her Majesty's Stationery Officer, and every prescribed badge shall be so obtained; and
 - b) Every prescribed certificate of Authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto, in a manner approved by the licensing Authority for the area in respect of which the licence was granted.

Duties of collectors in relation to certificates and badges

5. Every collector shall:

- a) Sign his name on the prescribed certificate of Authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of the collection:
- b) Sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
- c) Keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.

Age Limit

- 6. No person under the age of 16 years shall act or be authorised to act as a collector of money. **Importuning**
- 7. No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof

Collection of money

- 8. Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitted the person from whom it is received to place it in a collecting box issued to him by a promoter of the collection.
- 9. Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.

Duty of collectors to return boxes and books

- 10. Every collector, to whom a collecting box or receipt book has been issued, shall:
 - a) When the collecting box is full or the receipt book is exhausted, or
 - b) Upon the demand of a promoter of the collection, or
 - c) When he does not desire to act as a collector, or
 - d) Upon the completion of the collection return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

Examination of boxes and books

- 11. Subject to the following paragraph, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.
- 12. Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.
- 13. As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.

14. Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination. **Provision for envelope collections**

15. Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope collection, and the Secretary of State is of the opinion that the collection is for a charitable purposes of major importance and is suitable administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

16. Where an envelope collection is made in accordance with this regulation:

- a) Every envelope used shall have a gummed flap by means of which it can be securely closed;
- b) No collector shall receive a contribution except in an envelope which has been so closed.

Promoters to furnish accounts

17. The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the licensing Authority by which the licence was granted within one month of the expiry of the licence.

18. The licensing Authority or the Secretary of State may extend the period within which an account is required to be furnished to the Authority or to him, as the case may be, if satisfied that there are special reasons for so doing.

Form and certification of accounts

19. The account required by the preceding regulation

- a) Where money has been collected, shall be furnished in the form prescribed by the Authority
- b) Where property has been collected and sold, shall be furnished in the form prescribed by the Authority

Disposal of disused certificates of Authority, etc

20. The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of Authority and prescribed badges obtained by him for the purposes of the collection are destroyed when not longer required in connection with that collection or in connection with a further collection which has been authorised to promote for the same purpose.

Appendix C – Conditions to Place Object(s) on the Highway

1. OBLIGATIONS ON THE PERMISSION HOLDER

The Permission Holder undertakes:

- 1.1 To ensure that the object(s) is not placed in any other area than that stated in this Permission.
- 1.2 Not to allow the object(s) to be placed on the highway outside the times and dates permitted by this Permission.
- 1.3 To ensure that the dimensions and appearance of the object(s) at all times accords with the details agreed by the Council upon the issue of this Permission.
- 1.4 To ensure that the object(s) does not at any time obstruct the passage of or cause danger to persons lawfully using the highway.
- 1.5 To ensure that the object(s) is at all times well maintained and kept in a clean and tidy condition.
- 1.6 To ensure that the object(s) is at all times sufficiently weighted so that they do not move or blow over in the wind.
- 1.7 To pay to the Council the cost of making good any damage caused to the highway in consequence of the Permission Holder's operations thereon.
- 1.8 To indemnify the Council from all claims, damages and costs in respect of all accidents damages and injuries arising during or in consequence of the use of the Site to any person or property caused by the Consent Holder's operations or caused by any act neglect or default of the Consent Holder, his servants or agents (whether with or without the knowledge of the Consent Holder) to take out and on request produce to the Council a policy of public and product liability insurance covering no less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability.
- 1.9 To observe all statutory and other provisions and regulations for the time being in force which relates to the placing of the object(s) on the highway.
- 1.10 To comply with any directions or requirements issued by a chief officer of the Council or any member of their staff so authorised.
- 1.11 To forthwith inform the Council in writing of the details of any transfer/disposal to another person of the business to which the object(s) relates.

2. FURTHER CONDITIONS

- 2.1 This Permission is not assignable.
- 2.2 The Council may at any time vary the conditions of this Permission.
- 2.3 Nothing contained in this Permission shall be deemed to be a consent or approval of the Council in its capacity as Authority for enforcing byelaws or as a local planning Authority, health or highway Authority or in any other capacity.

- 2.4 The Council may revoke or suspend this Permission at any time in the event of:
 - 2.4.1 The breach by the Permission Holder their servants or agents of any of the conditions herein or any supplemental/additional conditions imposed by the Council; or
 - 2.4.2 Work being carried out in under or over the highway on which the object(s) is located; or
 - 2.4.3 A change in Council Policy which necessitates termination of this Permission; or
 - 2.4.4 Circumstances outside the Council's control which necessitate termination of this Permission forthwith.
- 2.5 The Permission Holder may surrender this Permission by giving notice in writing to the Council.
- 2.6 The Council shall be under no obligation to renew this Permission at the end of the period stated herein.
- 2.7 All licences must be displayed on the premises referred to in the consent or on the premises to which the consent relates.
- 2.8 The Council reserves the right to require objects and displays to be removed if at any time they are found to be inappropriate or necessary. This may happen if the

Advertising board or display becomes;

 - Unsightly or unsafe through poor maintenance
 - Inappropriate because of new developments in the vicinity
 - During events likely to result in significant increase in level of footfall

3. SPECIAL CONDITIONS RELATING TO MOBILE ADVERTISING

In addition to the above conditions, the following special conditions will apply to all mobile advertising structures:

- 3.1 A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary and a minimum distance of 4 meters (either way) between other boards.
- 3.2 The board must be sufficiently weighed down and not permanently fixed to the highway or any furniture on the highway;
- 3.3 The board does not contain any material or information that would prejudice the council or break any current legislation or contain any visual or written material that could be construed as inappropriate or offensive;
- 3.4 The type of board used is of an agreed type with the council;
- 3.5 The 'A' board must be constructed in such a way that it does not have any moving parts (i.e. rotating or swinging 'A' boards etc.);
- 3.6 The board must be of sufficient contrast to its surrounding area
- 3.7 The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts;
- 3.8 The board must, and must only, relate to the trade of the premises;
- 3.9 The board must not exceed the dimensions stipulated in the consent;
- 3.10 The board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises;

- 3.11 The board must not obstruct safe passage for all highway users, emergency or service vehicles or interfere with sight lines for any road users. (Breach of this condition will result in the board being removed immediately.)

Appendix D – Conditions of Permission to Place Tables & Chairs on the Highway

1. General matters

- 1.1 The fee for the granting of the Permission shall be paid in advance.
- 1.2 The tables and chairs shall at all times be well maintained and kept in a clean and tidy condition.
- 1.3 The tables and chairs shall not be placed in any other area than that stated in the Permission. They shall be placed in an area delineated by a suitable temporary barrier which is positioned to the satisfaction of the Assistant Director of Operations.
- 1.4 Furniture and temporary barriers shall be in accordance with the *Pavement tables and chairs design guide*.
- 1.5 The person to whom the Permission is granted shall ensure that the tables and chairs so far as reasonably practicable, and the persons using the tables and chairs, do not at any time obstruct the passage of or cause danger to persons lawfully using the highway on which they are situated.
- 1.6 The Permission may be suspended by the council at any time in the event of work being carried out in, under or over the highway on which the tables and chairs are situated or any adjacent highway.
- 1.7 The person to whom the Permission is granted shall indemnify the council against any costs, claims, actions or damages arising out of the placing of the tables and chairs on the highway.
- 1.8 The person to whom the Permission is granted shall bear absolute responsibility for ensuring that adequate public liability and products liability insurance is held in respect of the permitted area and the cover obtained shall be not less than £5,000,000, any one claim, in respect of public liability and not less than £5,000,000 in the aggregate during any one period of insurance in respect of products liability. Evidence of such public liability and products liability insurance shall be provided to the satisfaction of the council before the Permission can be exercised.
- 1.9 The Permission is not assignable.
- 1.10 The council may at any time vary the Permission or conditions thereof:
- 1.11 If the person to whom the Permission is granted breaches any one or more of the conditions thereof, the council may serve a 'default' notice requiring the breach of conditions to be remedied in a particular way within a stated time and should it be necessary in order to remedy the default, the council

may require the tables and chairs, temporary barriers and other furniture to be removed from the highway either temporarily or permanently.

1.12 (a) The person to whom the Permission is granted shall ensure that the tables and chairs and use thereof by members of the public are at all times supervised so as to avoid nuisance being occasioned to:-

- (i) members of the public lawfully using the highway
- (ii) local residents (iii) other local businesses.

(b) The person to whom the Permission is granted shall ensure that glasses, crockery, napkins, cutlery and any other item placed upon the tables and chairs by the person to whom the Permission is granted or by any other persons, when the tables and chairs are in use, are removed from the tables and chairs when they are not in use.

1.13 The person to whom the Permission is granted shall not allow music to be broadcast on to the street.

1.14 The person to whom the Permission is granted shall ensure that customers consuming food or drink outside the premises do not move beyond the demarcated area.

1.15 It shall be the duty of the person to whom the Permission is granted to clean the section of the highway in respect of which Permission is granted to the specification of the Assistant Director Community Services.

1.16 The Permission does not authorise the holder to allow alcoholic drinks to be served or consumed at the tables and chairs. It is the responsibility of the person to whom the Permission is granted to check with the Licensing Justices that the liquor licence for the premises allows such activities to take place.

2. **Design specification**

2.1 **Means of enclosure**

2.1.1 When in use the pavement area will need to be enclosed, to demarcate the permitted area and contain the tables and chairs, thus making it distinguishable to other pavement users, and particularly to assist blind and visually impaired pedestrians.

2.1.2 The layout of furniture and means of enclosure will only be approved if adequate provision has been made for customers with disabilities.

2.1.3 The enclosure shall be removed outside the hours of operation or when it is not intended to operate on the pavement within that period. The materials should therefore be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

- 2.1.4 The design of the barrier should complement the character of the surrounding area and in any event must have bars/elements at around 100mm and 1,000mm above ground level.
- 2.1.5 Planters can be particularly attractive and can be used as part of the means of enclosure but must be removed from the highway outside of the hours of operation.
- 2.1.6 Notwithstanding the contents of paras. 2.1.1 - 2.1.5 above the enclosure shall comply, in all respects, with the provisions of the council's design guide.

2.2 **Furniture**

- 2.2.1 The furniture should be of a high quality and uniform style within the permitted area. White plastic and or picnic tables will not normally be approved.
- 2.2.2 Where umbrellas are used these must be fabric type (ie non reflective) and display only limited advertising or logos up to 150 x 450 mm in size. Umbrellas are to be positioned so as to avoid overhanging, outside the enclosure or impairing vehicle sight lines.
- 2.2.3 Non furniture items, eg menu boards, signs and portable gas heaters also need to be approved as part of the enclosed area, and any unacceptable clutter or intrusion into sight lines will need to be removed if it is seen to be causing a problem.
- 2.2.4 All items need to be portable enough to be brought in at the end of the permitted period of each working day or in the event of an emergency.

Appendix E – Revised Outdoor Advertising Protocol

Where a licensing application is made to display an 'A' board within a Conservation Area, the Licensing Section shall provide written notification to the Built Environment Enforcement team. The notification should include an explanation for the signage and the location of the premises to which it refers.

No 'A' board will be approved within Conservation Areas except in the following circumstances; having regard to the position and location of the premises;

- a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,
- b) the premises are situated along a side alleyway and / or on private land which is not a public thorough fare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

Where the premises meet the exceptions in the protocol then the Planning Enforcement and Compliance team will confirm to the Licensing Section that the 'A' board may be licensed.

Where contraventions exist the most appropriate enforcement action will be considered which would normally involve the use of licensing powers or powers contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.