

PUBLIC COLLECTIONS FOR CHARITABLE, PHILANTHROPIC AND BENEVOLENT PURPOSES

A summary of the responses to the consultation exercise

1. Introduction

The Consultation document “Public Collections for charitable, philanthropic and benevolent purposes” was published on 9 September 2003. It followed on from the Strategy Unit Review’s recommendation that a new system of licensing for public collections should be introduced. The document set out for consultation a number of recommendations for the proposed unified scheme and posed a number questions for respondents to consider.

The consultation period closed on 2 December 2003. This paper provides a summary of the responses to the consultation exercise received by 17 December. A further 8 responses have been received since that date, they have been considered, but are not reflected in this summary.

2. Respondents to the consultation:

The Charities Unit of the Home Office undertook 12 consultation events in order to publicise the consultation document as well as meeting with key players in the field.

At the time of collating the statistical data referred to here, 252 responses to the consultation had been received. The respondent categories are as follows:

Large charities ¹	62	Local Authorities	107
Medium-sized charities	31	Police	7
Small charities	3	Other Government Departments	4
Professional fundraising groups	7	Shopping Centre Manager	1
Voluntary fundraising groups	3	Other groups (inc businesses & political parties)	2
Umbrella bodies	7	Active individuals	2
Special Interest bodies	3	Members of the public	2
Professional bodies	2	Anonymous/Not specified	8
Professional advisor	1	TOTAL	252

¹ Large charities were defined as those with an annual income of £1m or more; medium sized were those with an income between £10,000 and £1m; and small charities those with income under £10,000.

The consultation document posed a number of questions, which respondents were invited to consider. The questions were divided into three sections : the structure of the scheme; local authority operation of the new scheme; and the requirements placed in the organisers of collections.

3. The structure of the scheme:

3.1 Is the proposal for a new integrated licensing scheme, in principle, a good one?

Among the 223 respondents who commented on this question there was overwhelming support (95%) for a new unified scheme for the regulation of public collections.

However, comments received in relation to this and other questions suggested that a number of respondents believe the scheme should be flexible and able to adapt to the different collecting methods currently employed. For example, there was strong support for the scheme to differentiate in terms of the administrative arrangements for the collection of goods.

3.2 Should a licence be needed to carry out face to face fundraising?

222 respondents commented on this recommendation and the majority agreed (92%) that face to face fundraising should be subject to the licensing scheme. Some commented that it would create a fairer system and would improve public confidence in and the reputation of charities.

Of the 97 local authorities that commented on this recommendation 95 agreed that face to face fundraising should be subject to a licence. Local authorities commented that they had received complaints from the public about face to face fundraising and that it tended to cause more of a nuisance while raising more revenue than traditional collecting methods. The local authorities were typically also concerned about the use of professional fundraising organisations.

While the respondents overwhelmingly agreed that face to face fundraising should be subject to the licensing regime, there were concerns about the way in which the regulation would operate. Some respondents (27) supported the recommendation only if it accompanied an understanding of face to face collecting in terms of lead in times and / or that the application procedure was proportionate to the lack of opportunities for fraud associated with face to face fundraising. 24 respondents suggested that the Public Fundraising Regulatory Association's (PFRA) passport to fundraise scheme should be adopted here rather than local authority licensing.

Some respondents to this recommendation questioned whether it should be the activity or the organisation that should be subject to the licence. Some suggested that charities and fundraising organisations should be subject to a licence that was renewable on a yearly basis, rather than an application being submitted each time they wished to undertake a recruitment exercise. While others considered that it might be better for the fundraising organisation rather than the charity to apply for licences. Supporters of that suggested that in some cases the fundraising organisation might be best placed to complete the application and answer subsequent queries.

Implications for regulation

For fundraisers, an increased administrative workload was anticipated to be the most significant consequence of licensing face to face fundraising and accounted for over three quarters of all comments made. It was also felt that it would cause difficulties in terms of planning problems and reduced flexibility.

For local authorities, the increased administrative burden was also anticipated to be the most significant consequence of licensing face to face fundraising and again accounted for over three quarters of the comments received. However, 23 respondents also felt that it would increase local authority control.

In terms of the implications for regulation of the system as a whole it was felt that it would create a fairer system and would improve public confidence in and the reputation of charities. Less significantly, it was also felt that there would be increased control, enhanced accountability, increased efficiency and a reduction in public nuisance.

3.3 Should the definition of 'public place' include private property to which the public has unrestricted access?

220 respondents answered this question and 62% felt that the definition of public place should include private property to which the public has unrestricted access. Where respondents gave reasons for their answers the most popular reasons given for extending the definition of public place were that:

- ◆ collections in the areas referred to in the document currently raised capacity issues;
- ◆ private landowners / site managers did not take action to or were not able to adequately vet the eligibility of a collection;
- ◆ it would provide a consistent approach to regulation and prevent bogus collectors operating in the areas referred to;
- ◆ it would protect the public; and
- ◆ the public did not differentiate between the areas referred to and those currently subject to licensing - it was the activity not the venue that was considered to be of importance.

5 respondents argued specifically that the definition should be extended further to include the interior of shops and a further 11 respondents suggested that shops should not be excluded from the licensing regime.

Those not in favour of the proposal to extend the definition of public place typically felt that:

- ◆ it would be onerous on and cause difficulties for fundraisers in terms of getting permission from the site owner / manager as well as a licence from the local authority;
- ◆ site owners / managers already exercised adequate controls or are capable of controlling collecting activity in the areas referred to in the document;
- ◆ site owners or managers might find the system overly bureaucratic and refuse to allow collections because of the work involved; and
- ◆ to regulate those areas would detract from the rights of site owners / managers.

26 respondents felt that they were not sure about the proposal and argued that any change would require proper consultation with site owners.

A number of respondents (6) asked for clarification in terms of the impact of the new definition of public place on rights of way passing through private property or charitable premises. A further issue for consideration would be the impact on wildlife trusts and similar organisations. It was pointed out at the consultation events that a number of sites owned by the RSPB and the National Trust have unrestricted access and would fall within the new definition of public place. It would be a matter of concern if the Government required those organisations to apply for a licence to collect on their own land and if other organisations could apply for a licence to collect there.

3.4 Should there be any exclusions?

Of the 184 respondents who answered this question 84% felt that there should be some exclusions from the licensing regime in terms of certain types of property or collections.

The most frequently mentioned types of property to be excluded were:

- ◆ Shops (mentioned by 87 respondents)
- ◆ Charity premises (65)
- ◆ Schools (32)
- ◆ Churches / places of worship (31)
- ◆ Privately owned / managed property (19)
- ◆ Pubs (18)
- ◆ Offices (10)

- ◆ Other (7)
- ◆ Charity shops (5)
- ◆ Shopping centres (1)

The most frequently mentioned types of collection to be excluded were:

- ◆ Charity events / fundraising days / one-off events (mentioned by 68 respondents)
- ◆ Collection of goods / clothes (32)
- ◆ Other (13)
- ◆ Collections within charity shops (12)
- ◆ Charity boxes on counter in shops / pubs (11)
- ◆ Private event (3)
- ◆ Sporting events (1)

The collection of goods is discussed below at 3.8. Collections within charity shops, schools, a place of worship or at a private event or sporting event would not be included within the licensing regime as they are not public places to which the public has unrestricted access. Static charity boxes in a shop or pub would not fall within the scope of the regime.

3.5 Should small local collections be exempt from the licensing requirement?

216 respondents answered this question and there was less unanimity amongst respondents over this issue. Of the 216 responses received 52.5% felt that small local collections should be exempt, while 36.5% felt that they should not. 9% were not sure and 2% offered other answers.

Those who chose to expand on their reasons tended to be those who were opposed to the exemption of small local collections. The most common reasons given by those respondents were that it would create a loophole to be exploited (53 mentions); that it was impossible to define 'local' (24 mentions) and that it would prove difficult to enforce / police (7 mentions). Some respondents were concerned that small local collections were the ones more susceptible to fraud and abuse. Some respondents also felt that the presence of small local collections would impact on the capacity of an area.

Other respondents accepted that while small local collections might be more susceptible to abuse the Government should not look to implement legislation that would discourage that type of activity. There was some support for requiring the organisers of small local collections to retain a letter from the charity they were collecting for, in order to provide some authenticity, and for requiring them to notify local authorities of the date and venue of the collection so that the local

authority could judge whether capacity existed for it. A small number of respondents wanted a formal notification procedure to be put in place which advised local people as well as the local authority of the collection and the cause collected for. A very small number of respondents also suggested that the organisers of small local collections should be required to submit returns to the local authority.

3.6 How to define small local collections?

147 respondents commented on this question. There was some support for the exemption of the examples referred to in the consultation document; collection of goods for church bazaars / jumble sales (29 mentions), carol singing (25 mentions) and a small ad hoc collection in a single pub (21 mentions). However, a very small number of respondents (3) were concerned about the exemption of collections in a single pub. They tended to believe that those types of collections would be open to abuse and that it would be difficult to check that the collection remained within the confines of one pub.

There was no agreement on the use of the local authority ward as the basis on which to define a local collection. Respondents who opposed the use of local authority wards tended to argue that in many areas local authority wards covered a large area and in many cases it would include whole shopping centres. While supporters believed that it was a convenient means of definition.

While there was little agreement amongst the respondents, responses highlighted areas for consideration when defining the boundaries of small local collections. Those are:

- ◆ Limited area covered
- ◆ Limited frequency
- ◆ Limited duration
- ◆ Limited proceeds (expected)
- ◆ Limited number of collectors
- ◆ Scale of organisation involved
- ◆ Locality of charity to benefit from the collection
- ◆ Use of volunteers only

3.7 Replacing national exemption orders with a 'lead authority' model.

Of the 218 respondents who answered this question 56% thought that it was not a good idea, while 35% thought that it was a good idea. 8% were not sure and 1% offered other responses.

Respondents who opposed the lead authority model typically felt that it would result in swamping of certain local authorities who were either seen as efficient or a soft touch. It was a matter for concern that fundraisers would be able to select the 'lead authority' and respondents noted that no measures had been suggested to prevent unsuccessful

applicants from approaching numerous 'lead authorities' until the application was granted. Some local authorities were also concerned that once a decision had been made by the lead authority to grant a certificate of eligibility they would only be able to refuse that collection on capacity grounds. That would be despite prior knowledge / experience suggesting that the organisation should not be granted a licence. Fundraisers were similarly concerned that delays might occur while disagreements between the 'lead authority' and other local authorities were resolved.

While there was not agreement amongst the respondents over the application of the lead authority proposal, the concept of separating decisions on eligibility and capacity appears to have more support. That is evidenced by the number of respondents who suggested an alternative to the lead authority approach. 151 respondents put forward an alternative and suggested that eligibility should be assessed by one of the following:

- ◆ 24.5% favoured the PFRA passport to fundraise scheme;
 - ◆ 21% felt that it should be the Charity Commission;
 - ◆ 18% felt that it should be the local authority where the charity's head office was based (home authority);
 - ◆ 12% felt that there should be a new national body/licensing authority
 - ◆ 5% felt that authorities within a region should nominate one authority to carry out the eligibility checks
 - ◆ 1% felt that it should be the Home Office.
- ◆ 18.5% suggested an alternative that did not fit into any of the above categories.

Of the 37 respondents who favoured the PFRA's passport to fundraise model 31 declared that they were PFRA members and 1 was the PFRA itself. Supporters of the passport to fundraise model believe that it offers a more consistent, proportionate and effective methodology for managing charitable collections of all types.

Supporters of the Charity Commission (the Commission) as a central body for assessing eligibility pointed out that where the applicant was a registered charity the Commission would already have information at their disposal in order to judge their eligibility. Respondents typically felt the Commission already had the relevant skills and knowledge to assess the eligibility of organisations to collect. However, the Commission does not hold information on philanthropic or benevolent organisations.

3.8 Is the proposal to differentiate between the administrative arrangements for the collection of goods a sensible one?

Of the 189 respondents who commented on this question 84% felt that the proposal to differentiate between the administrative arrangements

for the collection of goods was a sensible one. Arguments for that were typically that:

- ◆ the collection of goods house to house does not raise any capacity issues or issues of public nuisance; and
- ◆ the risk in terms of fraud and loss to charity was smaller from the collection of goods than for cash collections.

In terms of the collection of goods specifically for charity shops respondents argued that:

- ◆ there was evidence that charity shops enjoy wide public support;
- ◆ charity shops often have to take urgent action in order to replenish stock in their shops and any delay in the processing of a licence application would cause serious problems for them; and
- ◆ local authorities operate their own re-cycling schemes by way of collecting goods, particularly textiles, from households and so are in competition with the charity shops. Some charity shops are concerned that if they were required to obtain a licence from the local authorities there would be a very clear incentive for the local authorities not to be sympathetic to their application.

The consultation document did not make any proposals as to what the administrative arrangements for the collection of goods should be. However, 17 respondents suggested in one form or another that registered charities undertaking the collection of goods should be subject to the eligibility check but then required only to notify local authorities of their activities. It was pointed out that in practice charity shops holding exemption orders have been collecting freely in England and Wales with no evidence of public concern. Currently exemption order holders should notify local authorities of their intention to collect but feedback we have received suggests that in practice that does not happen on a regular basis. That was either because local authorities have not required notification or because the exemption order holders were not aware that they were required to notify.

However, in response to this question some respondents expressed concern about bogus collectors whose leaflets did not state that they were collecting for charitable causes but gave that impression. In order to ensure that bogus collectors are subject to regulation one respondent suggested that the scheme should include any clothing collection which gave a reasonable impression of being for charitable, philanthropic or benevolent purposes.

A small number of respondents suggested that the arrangements should provide some safeguards by way of protection in terms of commercial participants. For example, that commercial participants should be required to declare the percentage of the total collected going to the charity.

3.9 Is there any reason why the appeal process should not be the same for both types of collection?

The responses to the consultation exercise showed decisive support for a unified appeals process. Of the 191 respondents who commented on this recommendation 91.5% felt that there was no reason why the appeal process should not be the same.

3.10 Are there any arguments for not making the Magistrates' Court the avenue of appeal?

Of the 187 respondents who answered this question 63% felt that there was no argument for the Magistrates' Court not being the avenue of appeal, while 33% felt that arguments existed.

Respondents who stated that there were arguments for not making the Magistrates' Court the avenue of appeal were typically concerned about the length of time and costs involved in progressing matters to the Magistrates' Court. Some local authorities were also concerned about the award of costs at the Magistrates' Court and suggested that it would act as a deterrent to pursuing cases.

3.11 Should responsibility for licensing public collections in London be transferred from the Metropolitan Police to local authorities?

The 129 respondents who answered this question were evenly split over the issue of transferring responsibility for licensing public collections in London. 47% (60) thought responsibility should be transferred and 48% (62) thought that it should not.

	Should be transferred	Should not	Don't know
Local authorities (n=45)	80%	13%	7%
Police (n=5)	80%	20%	0%
Charities (n=58)	19%	77%	4%

Those who supported the transfer of responsibilities typically argued that there was no basis for London to be treated differently and that for consistency the scheme should be administered by the London Boroughs. Crucially the Metropolitan Police also believed that functions should be transferred as it would enable them to concentrate on their core business.

Those who opposed the transfer were concerned that the London Boroughs would not have the experience or the resources to undertake effective regulation. 26 respondents commented that the PFRA already managed 138 locations in the London area and could expand their role. Some respondents felt that London should have a centralised body responsible for licensing. Both of those proposals

would satisfy those concerned about cross boundary collections and flag days organised across all the London Boroughs.

The number of responses received from the London Boroughs has been disappointing. Feedback received suggested that there was not a consensual view across the London Boroughs, although the majority were thought to be against the transfer of functions. Opposition appears to be on the basis of the extra burdens already being placed on local authorities following on from the Licensing Act 2003 and the fact that the consultation document suggested that a fee would not be charged for a licence. One London Borough commented that licensing charitable collections would result in resources being moved away from other services.

3.12 Should any offences be added to the list proposed?

In general respondents concurred with the list of offences proposed in the consultation document. Of the 169 respondents who commented on this question only 16.5% felt that some offences should be added and no respondents felt that any offences should be removed.

Some of the proposed offences related to matters which are already offences under other pieces of legislation and it would be inappropriate to consider them here. Those relate to offences of harassment, fraud / misrepresentation, sexual offences and offences against children. A small number of respondents asked for the offences listed to be amended and / or for additional powers to be granted to local authorities. It was suggested that local authorities should have the power to confiscate goods or money collected as a result of an unlawful collection.

Having excluded the offences mentioned above the following were put forward for the Government's consideration.

- ◆ To conduct a collection on a day where permission had not been granted.
- ◆ For not clearly identifying paid collectors
- ◆ Exceeding the number / proximity of collectors
- ◆ Failure to obtain an appropriate licence
- ◆ Failure to carry appropriate documentation
- ◆ Failure to comply with a request from an enforcement officer / Obstructing officers of the local authority in the execution of their duties.
- ◆ Breaching conditions of a licence
- ◆ Causing a public nuisance
- ◆ Failure to make a statutory return for a small collection
- ◆ Failure to provide sufficient details for the service of a summons
- ◆ Conducting a collection in breach of Code of Practice issued by the Secretary of State
- ◆ Undertaking a small local collection without getting permission

- ◆ Failing to secure proceeds of a cash collection (i.e. by having an open bucket).
- ◆ Using or allowing a person underage to undertake a collection
- ◆ Obstructing an authorised officer of local authority or the Police in execution of their duties
- ◆ For allowing an unlicensed collection (shop owners / publicans)

Only a very small number of respondents suggested any of the additional offences referred to above.

3.13 What additional costs / savings are envisaged under the proposed system?

Of the 148 respondents who answered this question only 2% felt that the system as proposed in the consultation document would result in savings. 89% of those who responded to this question believed that it would result in additional costs.

For local authorities it was typically felt that additional costs would be incurred as a result of taking on the 'lead authority' role and as a result of widening the scope of the current scheme so it includes face to face fundraising and some private property.

In general charities felt that approaching 'lead authorities' for an eligibility certificate and then contacting all local authorities for a licence to collect would result in additional costs. They also noted that additional expenses would be incurred as the definition of public place was extended.

3.14 Does it remain the general view that no charge should be levied for a licence?

Of the 207 respondents that answered this question 60% felt that no charge should be levied and 37% felt that it would be appropriate for a charge to be made. That has been broken down by respondent type (only by local authorities and charities) in the table below.

	No charge	Make a charge	Don't know
Local authorities (n=94)	24%	71%	5%
Charities (n=80)	91%	8%	1%

As expected the majority of local authorities believed that a charge should be made for a licence in view of the costs of administering the system. They believed that in order for the system to be operated effectively, with effective enforcement, there should be a licence fee. A number of local authorities have also pointed out that many councils believe licensing should be self-financing and this area of licensing is an anomaly. They also pointed out that charities currently pay for small lottery licences.

Fundraising organisations are concerned to keep costs to a minimum and suggest that a licence fee would be a tax on charities. However, supporters of the licence fee would point out that charities already incur expenses in terms of paying for third party fundraisers. Feedback received during the consultation events suggested that it would cost more for charities to undertake fundraising in-house. Some charities have also pointed out that it would place an extra administrative burden on local authorities in terms of the time and cost involved in issuing an invoice and chasing late payments.

4. Local authority operation of the scheme:

4.1 How should philanthropic and benevolent best be defined?

A number of respondents recognised that it was difficult to identify a clear definition for philanthropic and benevolent and there was no consensus on an actual definition. Some respondents felt that for the purposes of the scheme a broad definition should be adopted. They argued that it was for members of the public to decide which organisations they wished to donate to, provided they had been subject to the appropriate checks. Others put forward alternative definitions and some suggested that the definition provided by the dictionary would suffice. The dictionary defines philanthropic as "loving one's fellow men; benevolent" and benevolent as "1. wishing to do good; actively friendly and helpful 2. Charitable (benevolent fund; benevolent society)".

Feedback has been received, during meetings with stakeholders, that the Community Fund provides grants to charitable, philanthropic and benevolent organisations. It has been pointed out that the definition adopted by the Community Fund would equally apply for the licensing scheme and it would benefit the organisations involved if a consistent definition could be adopted.

4.2 Are collections where there is a significant element of private benefit (for example, sponsorship for challenge events) philanthropic or benevolent?

There was no consensus of views on this matter. Of the 156 respondents who answered this question 39% believed that collections which involved a significant element of private benefit could be philanthropic and or benevolent. 17% believed that they could not and 19% felt that it depended on the nature of the collection.

4.3 What factors should local authorities consider when assessing the capacity of a local area to accommodate collecting activity?

There were a variety of responses received in response to this question and a small number of local authorities provided examples of their current policies on capacity. 7 respondents felt that it was for local authorities alone to determine which factors to consider when formulating policies relating to the capacity of their areas.

Respondents to the consultation suggested a wide variety of factors for local authorities to consider. The most frequently mentioned factors were:

- ◆ Population density / Pedestrian flow (mentioned by 73 respondents)
- ◆ Socio-demographic assessment of an area (37)
- ◆ Footfall quality(25)
- ◆ Special features / conditions: unique / individual characteristics of a particular site / season etc (25)
- ◆ Avoidance of a public nuisance (18)
- ◆ Timing of other events in the area (16)
- ◆ Size of the town or area (15)
- ◆ Number of complaints received (14)
- ◆ Regularity of collections (12)
- ◆ Avoidance of an excessive number of collections (11)
- ◆ Number of collecting sites (10)
- ◆ Frequency of particular collecting methods (9)
- ◆ Number of collectors used (9)
- ◆ Advice received from the PFRA (8)
- ◆ Zoning the area (7)
- ◆ Demand for sites (7)
- ◆ One collection per site or location at a given time (6)
- ◆ Historical / Local Authority knowledge (6)
- ◆ Density of retail / commercial areas (6)
- ◆ Local economy / affluence (6)
- ◆ Previous revenues generated by collections (5)

A small number of respondents suggested that it would be helpful for local authorities to obtain feedback from local people and or businesses in order to ascertain whether they had set the capacity of their area at an acceptable level.

4.4 What factors should local authorities take into account when allocating collection slots (for example, the quality of different sites)?

Respondents expressed a wide range of views in relation to this question. The most frequently mentioned factors that respondents felt local authorities should bear in mind when allocating slots were:

- ◆ Adopt the PFRA's site allocation model (32 mentions)²
- ◆ Frequency of collections for the same organisation or cause (22)
- ◆ Days of the week and / or time (20)
- ◆ Type of collection / method adopted (19)
- ◆ First come, first served (15)
- ◆ Recognition of the difficulties faced by local charities in terms of being restricted to operating within a small area (15)
- ◆ Level of complaints (14)
- ◆ Fairness (14)
- ◆ Quality of sites available (13)
- ◆ Ability of area / sites to accommodate more than one collection (13)
- ◆ Intensity of the collections (11)
- ◆ One collection per site at any given time (10)
- ◆ Number of collections / number of collectors (9)
- ◆ Awareness of other events (9)
- ◆ Public nuisance (8)
- ◆ Footflow (7)
- ◆ Equality of access (7)
- ◆ Frequency of collections (6)
- ◆ Time of year (6)

5 respondents suggested that the allocation of sites should be a matter of local authority discretion.

4.5 Are the checks on eligibility suggested the right ones?

The consultation document proposed that local authorities should undertake a number of checks in order to ensure a) the eligibility of the organisation or cause collected for; b) the eligibility of the organiser of the collections, and c) the nature of the collection proposed.

The consultation document recommended that in order to establish the matters referred to at a) to c) above, checks to establish the following should be undertaken, that:

- the collection is genuinely for charitable, philanthropic or benevolent purposes;
- if the collection is being made on behalf of a particular named charity or voluntary organisation the organiser has a letter authorising the activity;
- the organiser is not an individual who has an unspent conviction for an offence involving deception or dishonesty;

² Of the 32 respondents who put forward this recommendation 28 declared that they were members of the PFRA.

- the organiser is not an individual who has an unspent conviction for a breach of the public collections legislation, or other relevant legislation, particularly that covering professional fundraisers and commercial participators;
- an organiser is not collecting for a charity, and does not have a formal relationship with a charity (i.e. he/she is a member of staff/board member, regular volunteer), in respect of which a Commission order prohibiting fundraising generally or just by means of public collections is still in force;
- the organiser gives an assurance that he or she has proper systems in place to check that collectors are fit and proper;
- the organiser gives an assurance that he or she understands and agrees to abide by the basic requirements designed to guarantee the security of the collection;
- the organiser undertakes to keep and to provide local authorities, on request, with specified records of collecting activity;
- the organiser gives an undertaking that the collection would not cause public annoyance taken by itself or in combination with others because, for example, it would cause an obstruction or involve noise pollution.

Of the 176 respondents who commented on this recommendation the majority 65% supported the eligibility checks in the form in which they were put forward in the document. 18% of the respondents suggested alternative checks but only 2 respondents believed that the checks were too onerous.

82 local authorities commented on this question and 77% of them supported the proposed checks on eligibility. The proposed checks made no reference to checks to establish the costs of the collection, the amount donated to charitable purposes or the level of remuneration. Local authorities currently consider those matters in line with the House to House Collections Act 1939.

4.6 How might liaison arrangements between local authorities, the police and the Charity Commission be improved?

Respondents to the consultation exercise expressed a variety of views in response to this question. Some local authorities explained that effective liaison arrangements had been established in their areas. They often took the form of regular licensing meetings which were attended by the Commission and or the Police. Some local authorities suggested that the models used in their areas could be used as the basis of operation for other areas (31 respondents).

The most frequent improvements identified by respondents were:

- ◆ Effective communication to be achieved by establishing informal networks accompanied by formal training within the organisations themselves (mentioned by 24 respondents)
- ◆ Standard operating procedures across the country on transparency and sharing of information (16)
- ◆ Provision of a central database / website and / or e-mail system (15)
- ◆ Police involvement in cases of suspected fraud in liason with the Commission and local authorities (12)
- ◆ Simple, timely intelligence / information exchange (9)
- ◆ Nominated contacts / officers (8)
- ◆ Provision of clear guidance (7)
- ◆ Warning notices issued by the Commission or the Police (6)
- ◆ Liason with all representatives on a regular basis (possibly annually) (6)
- ◆ The Commission to take on the role of the lead authority (5)

4.7 What factors should local authorities take into account when assessing whether the collection is likely to be / is a public nuisance?

Again respondents expressed a wide range of views in relation to this question. The factors, most frequently mentioned by respondents, as matters which the local authorities should consider when assessing whether a collection was likely to be a public nuisance, were:

- ◆ Harrassment of the public / behaviour of collectors (mentioned by 48 respondents)
- ◆ Number of fundraisers (38)
- ◆ Noise (35)
- ◆ Obstructing the pavement (33)
- ◆ Track record of the company involved (24)
- ◆ Frequency of collections (17)
- ◆ Capacity of the local area (12)
- ◆ Public view / consultation (8)
- ◆ Local knowledge (2)

4.8 Should collection organisers be required to submit estimates before and / or returns after the collection detailing the costs of and proceeds from the activity?

Of the 190 respondents who commented on this recommendation 21.5% answered Yes. However, as this question asked for comments in relation to the submission of estimates and returns we are unable to ascertain whether those respondents believed that organisations should be required to submit estimates or returns or both.

24% of respondents said that organisations should specifically be required to submit returns to the local authorities. Of the 45 respondents who favoured retaining the submission of returns 69% were local authorities. The proposal to provide estimates before a collection does not appear to be widely supported, only 2 respondents said that organisations should be required to submit estimates as well as returns. It was typically felt that estimates would be of limited use.

13 respondents specifically commented that only organisations that are not registered charities should be required to submit returns to the local authorities. That was typically on the basis that the annual accounts of registered charities were already subject to monitoring and scrutiny by the Commission.

35% of respondents who commented on this question answered No. Again, as the question asked for comments in relation to the submission of estimates and returns, we are unable to state clearly whether those respondents opposed the submission of estimates or returns or both.

This is an area where there was no unanimity of views. Taking into account the number of respondents who favoured the submission of some form of documentation to the local authorities (45+41+2) and the number who appeared to oppose it (67), it would appear that 57% were in favour of the submission of returns and 43% were opposed to it.

4.9 Should collection organisers who are employees, trustees or regular volunteers for a registered charity be exempt from the requirement to submit returns on their collecting activity?

Of the 177 respondents who commented on this recommendation 55% said that employees, trustees and regular volunteers should not be exempt from the requirement to submit returns on their collecting activity, while 41% felt that they should.

Again this is an area where there was not consensus and where there appears to be a division between the voluntary and community sector and the local authorities. As expected, the majority of respondents who opposed the exemption for the individuals referred to above were local authorities, and the majority of the respondents in favour were from the sector.

5. The requirements placed on the organisers of collections:

5.1 The consultation document proposed that the collection organiser and another responsible person or two other responsible people should be present at the opening of collection boxes. How should 'another responsible person' be defined in this context?

167 respondents commented on this recommendation and a variety of views were put forward. The definitions most frequently mentioned were as follows:

- ◆ Independent person, capable and of good character (bank official / magistrate / police officer) (mentioned by 47 respondents)
- ◆ A person who was not related to the collector, had no relevant unspent convictions, was a minimum age of 16 / 18 and was not connected to the collection (27)
- ◆ Office holder in the organisation (11)
- ◆ Defined in the same way as the list for counter signatories on a passport application (7)
- ◆ A responsible staff member or volunteer over the age of 16 (7)
- ◆ One or two persons not related (7)
- ◆ Members of the organising committee but not related to the particular collection (7)
- ◆ Known to / trusted by the organiser (4)

21 respondents commented that this requirement would be inappropriate in relation to the collection of direct debit solicitations, where collection boxes were not used.

Some respondents added that the level of controls should be proportionate to the financial sums involved. While 5 respondents specifically commented that if a person had been trusted to undertake a collection they should be equally trusted to open the collection boxes and calculate the proceeds of that collection.

A number of respondents also expressed concern as to how this requirement would be enforced.

5.2 Collection organisers should have basic safeguards in place to secure the proceeds of collections. Are other safeguards, in addition to those suggested needed?

The consultation document recommended that a number of safeguards should be put in place so that the public would have confidence that the money they deposited in collection tins would reach the cause to which they donated. It recommended the adoption of the following measures:

- the use of sealed and consecutively numbered collecting boxes (collecting envelopes when filled should be placed in such boxes) clearly marked with the name of the charity or voluntary organisation or fund being collected for;
- securing the return of and accounting for all collecting material issued including badges and collecting boxes that have not been used (but not including envelopes);
- the organiser and another responsible person not connected with the cause on whose behalf funds are being raised (or two responsible people) being present at the opening of collecting boxes and both signing a statement on the proceeds of each numbered box;
- the proceeds to be banked by the organiser and one other responsible person (or two responsible people) and a receipt obtained on the day or the next working day after the boxes have been opened;
- all collection proceeds to be paid into bank accounts controlled by the organisation on whose behalf they were raised;
- official badges to be used by all collectors (provided by the charity according to a specified format and signed by the collector?);
- all collectors to be furnished with a copy of the licence giving permission to collect which they should show on request.

Of the 171 respondents who commented on this question 54.5% did not believe that further safeguards were required in addition to the ones proposed. 37% of respondents felt that further safeguards were required. There was no unanimity of views as to the additional safeguards required. The most popular suggestions were the need to establish specific safeguards to protect the information supplied by donors when providing information to face to face fundraisers (13), the requirement for 2 people to be present at the opening of envelope cash collections (11), and for authorised badges to be issued by local authorities.

5.3 The organisers of public collections might require all their collectors to sign an undertaking that they do not have a relevant unspent conviction. Is this requirement sufficient to ensure that collectors are 'fit and proper'?

There was no consensus among the respondents who commented on this question. Of the 188 respondents who answered this question 46% agreed that the requirement was sufficient to ensure that collectors were 'fit and proper'. However, a number of them added the caveat that they did not believe that this measure would actually

ensure that collectors were 'fit and proper' but that it was the only reasonable measure that could be taken.

17% of respondents argued that this measure was not sufficient, they were concerned that persons who had a relevant unspent conviction would not be deterred from collecting by being required to sign a declaration declaring themselves as 'fit and proper'. However, 17.5% of respondents believed that this measure was too onerous. A number of charities were concerned that it would deter volunteers. They were typically charities, whose collectors were often volunteers and who had become involved with the charity as a result of the help offered by it to a sick or dying relative. Those charities felt that it would be an imposition to require those collectors to sign such a declaration. Charities were also concerned that the measure made no allowance for volunteers who had been collecting for a charity for a number of years and where a level of trust had already been established.

5.4 Should the minimum age of street and house to house collectors be set at 14 (or lower), provided that the collectors up to the age of 16 are accompanied by an adult or should the minimum age for all collectors be set at 16 (or higher)?

The responses to the consultation exercise showed a variety of views in response to these questions. 13.5% of respondents said that collectors should be allowed of any age if accompanied by an adult, otherwise 16 plus; 23% said that the minimum age should be 14 if accompanied by an adult, otherwise 16 plus; 13% said that the minimum age should be 16 if accompanied by an adult, otherwise 18 plus. 26% said that the minimum age for collectors should be 16 and 8% said that it should be 18.

While there was no unanimity of views here, 55% of the respondents who commented believed that there should be a provision to allow collectors under the age of 18 provided they were accompanied by an adult or someone over the age of 16. Albeit that they put forward different specifications in terms of the ages at which those collectors required escorting. A further 26% suggested that the minimum age for collectors should be 16 without being accompanied by an adult. Therefore, the majority of respondents believed that the new scheme should provide for collectors under the age of 18.

5.5 Are the record keeping requirements suggested sufficient / reasonable?

The consultation document suggested that organisers should be required to keep detailed records of their collecting activity, which local authorities would have the power to require where, for example, complaints had been received about the conduct of particular collections and / or where the local authority had decided to carry out random checks.

The consultation document recommended that the following records should be retained:

- an account of the proceeds of each numbered collecting tin (and of the location and day and time on which the tin was used);
- an account of the direct debit commitments made (and of the location and day and time on which the commitment was given);
- if a third party is undertaking cash collections - confirmation that the proceeds, before any expenses have been paid, have reached the organisation or fund on whose behalf they were collected;
- an account of the expenses associated with each collection, national or local;
- if a third party is undertaking the collection of goods and is representing that a proportion of the proceeds go to charitable causes - confirmation of the total revenue generated by the activity and of the amounts paid over to the cause over specified periods (quarterly and annually).

Of the 182 respondents who commented on this question the majority (74%) agreed that the record keeping requirements put forward were sufficient and reasonable. Only 2% of respondents suggested that they were not sufficient. However, 19% of respondents considered that the record keeping requirements were too onerous. 22 respondents believed that the requirements were unreasonable and cautious. 4 respondents specifically commented that it was overly burdensome to expect collectors to keep a record of the day and time that a collection tin was used. A further 2 respondents said that it was unreasonable to require the proceeds of a collection to be banked the next day, which could be difficult for smaller organisations.

5.6 Should local authorities be able to suspend licences while they investigate any concerns about collecting activity?

Of the 172 respondents who answered 88% felt that local authorities should be able to suspend licences while an investigation was on going into concerns about the collecting activity.

However, 24 of the respondents who favoured the right of local authorities to suspend licences did so only on the basis that collectors were presumed to be innocent. Respondents in this group felt that where collectors co-operated with the investigation they should be permitted to continue with the collecting activity. They believed that it should only be where the collector had not co-operated with the investigation that the right to suspend a licence would be exercised. A further 12 respondents supported suspensions but only where they

were limited to the collecting activity which had caused concern. Respondents in this group wanted to ensure that a concern in one area would not result in a blanket suspension for a charity's entire collecting programme.