

EAST HERTS COUNCIL

LICENSING COMMITTEE – 26 MARCH 2015

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

CONSIDERATION OF PUBLIC FUNDRAISING ASSOCIATIONS
(PFRA) RESPONSE TO SUGGESTED AMENDMENTS TO DRAFT
SITE MANAGEMENT AGREEMENT

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To inform the members of the Licensing Committee about the details of discussion undertaken with the PFRA regarding a site management agreements for East Herts District.

RECOMMENDATION FOR LICENSING COMMITTEE: that

(A)	Members make recommendations regarding proposed changes to the draft site management agreement.

1.0 Background

1.1 Charity cash collections on the street need a licence from the council (or the police in London) under The Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

1.2 However, an issue arises when determining whether face-to-face Direct Debit street fundraising is covered by this Act.

1.3 The 1916 Act (section 5 – the only bit that is still in force) very clearly states a licence is required for a collection of money. The Act says that a licence is required in order to “collect money or sell articles for the benefit of charitable or other purposes” (s5.1). Direct Debits are not considered to be money in law; they are ‘promises of money’ at a later date.

1.4 Face-to-face collections conducted door-to-door by visiting householders is covered by a completely different act, the House-to-House Collections Act 1939. Unlike the 1916 Act, the 1939 Act is generally held to cover face-to-face Direct Debit fundraising

because it states that a licence is required for the collection of 'money or other property'.

- 1.5 This lack of regulation of Direct Debit collections causes a number of issues for the council. Despite an authority having a policy regarding cash collections, which may dictate the locations and numbers of collectors, and issuing permits accordingly Direct Debit collectors can turn up without notice.
- 1.6 This leads to increased complaints from members of the public using these areas, businesses who feel customers are avoiding certain areas and from the charity holding a legitimate cash collection.
- 1.7 Some authorities have, with very limited success, tried to use the 1916 Act to move direct debit collections on if they do not have permit but ultimately this is a bluff and there is no case law to back up this position.
- 1.8 At East Herts we have been positively engaging with the Direct Debit collection sector so that we are able to have some control over the number of collectors within our Town centres. To do this we have encouraged them to consult us on dates and have issued permits similar to those we are required to issue for cash collections. However ultimately, if Direct Debit collectors choose not to do this, and just turn up, there is no recourse for the council.
- 1.9 A report was put before the Licensing Committee on 20 November 2014 regarding a draft site management from the PFRA. The Licensing Committee made a number of recommendations and officers took these back to the PFRA and the report that follows details the response.

2.0 Report

2.1 The two suggestions that came out of the November meeting of the Licensing Committee were:

- to remove Maidenhead Street from the Hertford SMA due in part to the redevelopment of the area;
- that the South side of Ware High Street be excluded from the Ware SMA due to the narrow pavement.

- 2.2 The PFRA Outreach Officer has taken the suggestions back to the members of the PFRA and the responses are below.
- 2.3 With regards to the removal of Maidenhead Street from the Hertford SMA the members of the PFRA believe that this would make the agreement unworkable.
- 2.4 Looking at the Hertford plan in the draft of the site agreement attached to this report as **Essential Reference Paper 'B'** the removal of Maidenhead Street would halve the permitted area. This presents a number of issues for both collectors and the public. It would concentrate the collectors into a more confined area which is something the PFRA try to avoid. Members of the public are likely to feel that the area is inundated with collectors and may actively avoid the area. It was suggested by officers that this issue could be addressed by permitting less collectors in the smaller area but PFRA members again felt this would make the SMA unworkable.
- 2.5 PFRA members felt that by excluding collectors from a busy and redeveloped area of the town centre their collections may not be financially viable.
- 2.6 The PFRA have suggested that it would be possible to exclude Maidenhead Street from the SMA for a fixed period of time during any redevelopment work. This takes into account the possibility that the public highway may be narrowed by works and that it would be inappropriate for collectors to be there at that time.
- 2.7 With regards to excluding the South side of Ware High Street from the Ware SMA the members of the PFRA believe that this would make the agreement unworkable.
- 2.8 PFRA members again believe that to concentrate collectors on one side of the High Street would have a number of impacts. It is possible that members of the public may actively avoid the North side of the High Street as this may be perceived as the area inundated with collectors. Whether this is the case or not businesses based on the North side of the High Street may blame this decision for driving customers away.
- 2.9 The PFRA have stated that their members would not choose to locate themselves where the pavement narrowed for safety reasons and it may also discourage people to stop and talk to collectors for fear of blocking the pavement. The PFRA rule book requires its member's collectors to not 'obstruct' the public and it

is likely that this rule would be breached if collectors located themselves on the narrower part of the High Street. In those circumstances the PFRA could take action.

- 2.10 Areas on the North side of the High Street have also been identified as being narrow, in particular the area on the corner of Church Street where vehicles enter from the High Street.
- 2.11 The PFRA members have suggested that a revised plan could be used for the Ware SMA with the narrow areas excluded from the agreement so that they cannot be used by collectors.

3.0 Officers observations

- 3.1 As previously detailed to the Licensing Committee the authority currently has no control of the number and location of direct debt fundraisers.
- 3.2 If Members wish to exclude Maidenhead Street permanently from the Hertford SMA then it is unlikely that the PFRA will be willing to sign an SMA. If Maidenhead Street is to be excluded from the Hertford SMA during redevelopment work when will the dates to be excluded from the SMA be known?
- 3.3 Are Members happy to include the South side of Ware High Street in the Ware SMA? If the answer is yes then Officers would be willing to visit Ware High Street with the Members that have expressed concerns regarding the pavement widths to identify those areas that should be excluded. If Members wish to exclude the South side of Ware High Street completely then it is unlikely that the PFRA will be willing to sign an SMA.

4.0 Implications/Consultations

- 4.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

<http://www.pfra.org.uk/>

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