

Cheltenham Borough Council

Cabinet – 19 June 2012

Regulating Direct Debit “Face to Face” Fundraising in Cheltenham

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Culture and Wellbeing – Sonia Phillips
Accountable scrutiny committee	Overview and Scrutiny Committee
Ward(s) affected	All
Key Decision	No
Executive summary	<p>There are currently no statutory provisions in place for local authorities to formally regulate or licence direct debit face to face fundraising.</p> <p>The Public Fundraising Regulatory Association (“PFRA”) is the charity-led self-regulatory membership body for all types of face to face fundraising. The PFRA regulates face to face fundraising through Site Management Agreements with local authorities.</p> <p>Cabinet is asked to approve such a scheme in Cheltenham and further to approve the Site Management Agreement.</p>
Recommendations	<p>That Cabinet RESOLVE to:</p> <ol style="list-style-type: none">1) Approve the adoption of the scheme for Cheltenham; and2) Approve the Site Management Agreement attached at Appendix 2; and3) Delegate authority to the Director of Culture and Wellbeing to sign the Site Management Agreement on behalf of the Council.
Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>

<p>Legal implications</p>	<p>Traditional charity street collectors who collect money typically in a tin or box are controlled by permits issued by the Licensing Section under provision laid down in The Police, Factories Etc (Miscellaneous Provisions) Act 1916. This form of fundraising described in the report which collects Direct Debit information amounting to a promise of money has raised questions over whether funds collected amount to money for the purpose of the 1916 Act and therefore whether this activity can be controlled using permits issued under the Act.</p> <p>This has led to a situation where it is difficult to control this type of activity. A voluntary agreement with the PFRA has been devised as a means of trying to control the level of fundraising activity and the conduct of the collectors. It should be noted however that this is voluntary agreement rather than a legal agreement and therefore the provisions are not legally binding upon the PFRA or the fundraisers.</p> <p>The Local Government Act 2000 section 2 gives every local authority power to do anything, to include the power to enter into agreements or arrangements, which they consider is likely to achieve any one or more of the following objects:</p> <ul style="list-style-type: none"> • the promotion or improvement of the economic well-being of their area, • the promotion or improvement of the social well-being of their area, and • the promotion or improvement of the environmental well-being of their area. <p>Entering into this Agreement may promote the economic and environmental well-being of the Town Centre.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no HR implications arising from this report.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
<p>Key risks</p>	<p>As outlined in Appendix 1</p>
<p>Corporate and community plan Implications</p>	<p>Attract more visitors and investors to Cheltenham</p>

1. Background

- 1.1 There are currently no statutory provisions in place for local authorities to formally regulate or licence direct debit face to face fundraising (sometimes referred to as “chuggers”).
- 1.2 This has rendered the Council unable to formally control this form of fundraising activity in the borough. Strictly speaking, the Council does not have any official power to restrict face to face fundraisers from visiting Cheltenham or ability to prescribe the location or conditions under which they may operate within the borough.

2. Direct Debit Face to Face Fundraising

- 2.1 This form of fundraising is normally undertaken by individuals who approach members of the public with a request to make a regular donation to a particular charity by way of a monthly direct debit.
- 2.2 These individuals are clearly identified through the tabards they wear identifying the charity they are collecting for.

3. Council’s Current Approach

- 3.1 The Council benefits from a good working relationship with face to face fundraising agencies and organisations. This type of fundraising activity has been informally managed by the Council through a diary booking system to ensure that they do not clash with other charitable collectors such as street collectors (charity buckets). In 2011, the Council diarised 189 visits by face to face fundraisers to visit Cheltenham.
- 3.2 The Council’s current system works well in terms of ensuring fair access for all types of charitable collections. However, as a result of the fact that there are currently no statutory provisions in place to formally prohibit face to face fundraisers from visiting Cheltenham, the Council’s current system is limited in terms of effectiveness to properly regulate face to face fundraising.
- 3.3 For example, the Council is unable to formally deal with complaints from members of the public and/or local businesses relating to face to face fundraisers. Furthermore, face to face fundraising agencies are unrestricted in terms of where they can fundraise and can choose to visit Cheltenham despite the Council’s request not to.
- 3.4 In order to control face to face fundraising more effectively in Cheltenham, officers have approached the Public Fundraising Regulatory Association (“PFRA” hereafter) to draw up a draft Site Management Agreement (“SMA” hereafter) for Cheltenham.
- 3.5 The SMA will stipulate the conditions under which face to face fundraisers can visit Cheltenham and will be discussed in more detail at paragraph 6 of this report.

4. The Public Fundraising Regulatory Association (PFRA)

- 4.1 The PFRA is the charity-led, self-regulatory membership body for all types of face to face fundraising.
- 4.2 It currently has 95% of the organisations, both charity and fundraising agency members, currently involved in all types of face to face fundraising activity signed up to the self-regulatory scheme. A full list of members is available on the PFRA’s website at http://www.pfra.org.uk/control_and_regulation/who_we_are/members/.

4.3 The PFRA has a dual role in regulating face to face fundraising;

- 1) **Professional standards** – by enforcing the Institute of Fundraising’s Face to Face Activity Code of Fundraising Practice, running a mystery shopping programme, and ensuring our members complete an accreditation process.
- 2) **Ensuring Fair Allocation of Fundraising** – via a fair and equitable site allocation programme and work with local councils to negotiate ‘site management agreements’ (SMAs) that contain guarantees about the locations and times that fundraising can take place.

5. Site Management Agreement (SMA)

5.1 Although the Council is effectively unable to restrict face to face fundraisers from visiting Cheltenham, the Council can manage access, location, times and numbers through an agreed SMA.

5.2 A typical SMA will:

- Delineate the location in which fundraisers may work.
- Specify which days of the week fundraisers may attend.
- Specify how many fundraisers may attend.
- Include various other criteria and stipulations, such as whether or not bags may be left on the pavement, or whether a non-fundraising team leader is allowed to be present.

5.3 Officers in conjunction with the PFRA have drawn up a draft SMA for Members to consider. A draft copy of the SMA is attached at **Appendix 2**.

5.4 The draft SMA for Cheltenham proposes;

- 1) That face to face fundraising activity be restricted to the pedestrianised area of the High Street between Pittville Street and Winchcombe Street.
- 2) The maximum permitted capacity would be 6 fundraisers.
- 3) Where fundraisers are found to be working outside of the agreed locations, they must comply with requests made by Council officers and reposition themselves correctly or as directed on-site.
- 4) Only one charity will be permitted a day.
- 5) Fundraising will only be permitted on Tuesdays, Thursdays and Fridays, between the hours of 9am and 7pm.
- 6) In addition, the Council has discretion to notify the PFRA of any “Exclusion Dates” which are extra dates on which the Council can restrict fundraising if there are special events etc. where the Council considers it necessary to not permit fundraising.

5.5 In addition to the SMA, fundraisers will be expected to also adhere to the Face-to-Face Activity Code of Fundraising Practice (**Appendix 3**), the PFRA/Institute of Fundraising abridged code of practice (**Appendix 4**), and any other rules promulgated by the PFRA.

5.6 This SMA will be reviewed 6 months after it is signed, and then once every 12 months, if necessary, or earlier if there is just cause to do so. There is no cost for the Council to sign up to a SMA.

- 5.7** There will be a lead time of up to 8 weeks before the SMA will take effect in Cheltenham. This is to account for the PFRA's bidding/allocation cycle.
- 5.8** A number of other towns have already adopted the scheme and SMA's. These include Manchester, Nottingham, Leeds, Gloucester and Glasgow. Feedback from these towns and cities have been positive in terms of the effect the scheme has had in their areas.

6. Benefits of a SMA

6.1 A SMA will bring a number of benefits to the Council;

- 1) It will enable to the Council to better control this type of fundraising activity in the borough.
- 2) The PFRA will be sole responsible for dealing with all complaints resulting from face to face fundraising whether the complaint be from a Council Officer, town centre manager, a member of the public or local businesses.
- 3) The PFRA will be responsible for maintaining a diary management system which will minimise the administration currently undertaken by officers.
- 4) The PFRA will monitor member organisations, through a programme of random spot-checks and other mechanisms, to ensure fundraisers' adherence to the code of practice and SMA, from time to time.
- 5) Should fundraisers breach the terms of the SMA the PFRA offers a single point of contact for the local authority to rectify this. They can usually ensure SMA breaches are put right within the hour and if necessary, impose penalties and sanctions on member organisations.

7. Penalties Imposed by the PFRA

7.1 The PFRA enforces its rules through financial penalties. Transgressions of the rules attract penalty points (of 20, 50 or 100 points), which will be converted into a monetary fine of £1 per point once a 1,000 point threshold is reached.

8. Reasons for recommendations

8.1 To ensure that the Council is better able to control face to face fundraising in the borough.

9. Alternative options considered

9.1 Members can decide not to support this scheme but this is not a desirable option for the reasons outlined in this report.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 775200
----------------------	--

Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Site Management Agreement (SMA) 3. Face to Face Activity Code of Fundraising Practice 4. PFRA/Institute of Fundraising abridged code of practice
Background information	<ol style="list-style-type: none"> 1. Service Records

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	The Council will be unable to effectively control this form of fundraising which could have an adverse effect on the Council's reputation.	Senior Licensing Officer	19 Jun 2012	2	2	4	Accept	Adopt the PFRA scheme and accompanying SMA.	TBC	Licensing & Business Support Team Leader	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close