

Public Charitable Collections

Guidance Note for applicants

The information contained herein is provided for the guidance of applicants for the Midlothian area only who may also wish to take independent advice prior to lodging an application for a public charitable collection.

Public charitable collections are governed by the Civic Government (Scotland) Act 1982 – Section 119; the Public Charitable Collections (Scotland) Regulations 1984 and any directions/conditions attached by the Council.

You need to obtain permission from the Council to hold a public charitable collection if you are collecting money from the public for charity and this includes collections from streets and houses. If you hold a public charitable collection without the necessary permission, you are acting contrary to the law and this may lead to prosecution.

If you wish to set up a table or stall when carrying out a street collection, you will need to seek and obtain written consent from the owner of the land and forward it with the completed application. If the land is owned by Midlothian Council this is via an email request – roadsapplications@midlothian.gov.uk

You need to apply for permission no later than **one month** before the date you wish to carry out the collection. However, applicants are encouraged to apply as soon as possible and not wait until the deadline to apply. You need to complete an application form for a Public Charitable Collection. The preferred method of lodging is by email to – democratic.services@midlothian.gov.uk Applications sent by post should be addressed to – Democratic Services, Midlothian Council, Midlothian House, Buccleuch Street, Dalkeith, Midlothian EH22 1DN.

Completed forms are checked to ensure all of the relevant information required by the Council and Police Scotland has been supplied. It may be necessary to contact an organiser to seek clarification about certain matters prior to processing the application. The processing of the application involves providing a copy of the completed form to Police Scotland and checking the Register of Public Charitable Collections held by the Council. The check of the Register is to ensure that the application does not clash with any permission already granted by the Council. The Council will not grant permission for more than one collection to take place on the same date and location as another.

Permissions may include conditions relevant to the local circumstances in which the collection is to be held and will relate to:-

- the date, time or duration of the collection
- the area the collection is going to take place in
- how the collection will be carried out
- the collection boxes/other containers to be used

An application for permission may be refused for any of the following reasons:-

- the date, time, length or area the collection is proposed will cause inconvenience to the public
- there is another collection taking place at the same time
- the organiser of the collection, has been convicted of an offence

Before an application is refused, you may be asked to provide further information to assist with the deliberation of the application. A statement of the reasons for refusal will be provided to the organiser.

If the Council considers an organiser has broken or is likely to break, a condition attached to a permission issued, the Council may withdraw the permission or amend it by changing the conditions attached. If the permit is withdrawn or amended, the Council will provide reasons for this to the organiser.

You can appeal against the Council's decision -

- if permission for a collection is refused
- if permission for a collection is withdrawn
- if the conditions of the permission are changed
- about conditions added to the permission

The appeal requires to be made within 14 days of the date of the decision and lodged at Edinburgh Sheriff Court. If the appeal is upheld, the Sheriff may either refer the case back to the Council to re-consider or reverse or re-consider the decision.

Organisers should ensure that they are aware of the requirements of the Regulations with regard to who can carry out a collection; guidance and documentation to be given to collectors; the type of collection receptacles which can be used and the requirement to provide information relating to the collection to the Council within one month of the date of the collection.

Organisers must appoint either a qualified accountant or an independent responsible person to act as the auditor of the collection. An agent can also be appointed to carry out certain responsibilities relating to the collection. All persons involved including collectors must comply with the Public Charitable Collections (Scotland) Regulations 1984 and any conditions attached to the permission issued.

Each collector must be provided with a certificate of authority by the organiser. The certificate must include the following information:-

- the organiser's name and address;
- the collector's name and address;
- the name of the charity the collection is for;
- the area where the collector is permitted to collect – this information should be taken from the permission issued by the Council;
- the period when the collector may collect – this information should be taken from the permission issued by the Council;

- the collector's signature and;
- the organiser or agent's signature (if signed by an agent the agent's name and address must also be included)

The organiser shall ensure that collectors are given a supply of envelopes (if envelopes are being used) or, if envelopes are not being used, a collection box, with a unique number on it. Organisers also need to ensure they keep a record of the name and address of each collector and either the number of envelopes or the unique number on the collection box given to each collector.

Collectors and their responsibilities

Organisers must ensure collectors are:-

- at least 14 years old for a street collection and at least 16 years old for a house collection;
- fit and proper persons to act as collectors and;
- aware of their responsibilities in terms of the Regulations and/or any conditions attached to the permission

Collectors must ensure:-

- they have a certificate of authority issued by the organiser;
- display a badge showing the name of the charity;
- show the certificate of authority to anybody who needs to see it;
- in an envelope collection, only sealed envelopes are accepted;
- for a non-envelope collection, only contributions in a collecting box are accepted;
- they do not harass anybody;
- they do not stay at anybody's house or door if they are asked to leave and;
- they return the certificate of authority, collecting box or unopened envelopes to the organiser or agent when asked for them

Opening envelopes and collection boxes

Envelopes and collecting boxes should only be opened by the organiser or his agent in the presence of another responsible person or a bank official (if they are delivered unopened to a bank).

Anybody opening envelopes must record the number of envelopes returned by each collector; record how much money is in them and give the information to the organiser.

Anybody opening collection boxes must record the number on each box; record the amount of money in each box and; give the information to the organiser.

Statement of Accounts>Returns Form to the Council

Within one month of the last date of the collection, the organiser must send the accounts of the collection along with the completed statement/returns form and a report by the auditor, to the Council. Failure to supply this information will result in the matter being reported to Police Scotland.

An organiser, must keep all vouchers, receipts and other papers relating to the collection for at least 2 years after the information is supplied to the Council. The Council may need to see these vouchers and/or any other records held when seeking an explanation about a matter relating to the collection. Organisers should note that failure to keep the records listed in Regulation 11 is an offence which may result in prosecution.

An organiser must publish a summary of the accounts of a collection in one or more newspapers in the area or areas where the collection was carried out. This must be done within one month of sending the accounts to the Council. If a collection is carried out in the Midlothian area only and is not part of a national collection, we may agree that you do not require to publish a summary of the accounts of the collection. Instead we may make the summary of accounts available to the public to look at for a period of time. The summary of accounts must include:-

- the name of the person who organised the collection
- the amount of money collected
- the cost of the collection
- the name of the fund or charity that has benefited from the collection, and the amount that each fund or charity has been paid from the proceeds of the collection and the date the collection monies were paid to the fund or charity