

<b>Committee(s):</b>	<b>Date(s):</b>
Police Committee	11 July 2012
<b>Subject:</b> Charitable collections in the City of London	<b>Public</b>
<b>Report of:</b> Director of Markets & Consumer Protection	<b>For Information</b>
<p><b><u>Summary</u></b></p> <p>This report outlines the legislative requirements for charitable collections and how it affects the increasingly common practice of charities stopping people in the street and attempting to secure unsolicited donations to their charity either by way of obtaining the donors bank details (direct debit) or persuading the donor to text the charity money (textgiving).</p> <p>Opinion has been sought on the legality of both these practices and the conclusion is that they comply with current legislation.</p> <p style="text-align: center;"><b><u>Recommendations</u></b></p> <p>This report is for information.</p>	

## **Main Report**

### **Background**

1. Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (the 'Act') permits the Common Council of the City of London to make regulations with respect to the places where and conditions under which persons may be permitted to collect money for, amongst other things, charitable purposes ('collection').
2. Regulations were made by the Mayor, Alderman and Commons of the City of London sitting as Common Council and came into force on 22 May 1980. The Regulations require that no collection shall be made unless a permit has been obtained from the Commissioner of Police for the City of London. If a collection is carried out without the necessary permit an offence is committed under s.5 of the Act.
3. The administration associated with the receipt of collection applications, the carrying out of necessary checks, issuing the permit and carrying out post collection checks are carried out by officers of the City of London Licensing Service on behalf of the Commissioner.

4. The City of London, along with other local authorities, have experienced an increase in the number of collectors attempting to stop people in the street and obtain either their bank details or to obtain a signature on a direct debit mandate. The collectors ('chuggers') do not have permits to carry out street collections.
5. In October/November 2011 the licensing service received complaints concerning collectors stopping people in the street and asking them to donate to a particular charity by texting a number which would then deduct a sum from the sender's bank account or mobile phone credit ('textgiving').
6. On 15 November 2011 this service received a letter from solicitors acting on behalf of the Public Fundraising Regulatory Association (PFRA). They claimed that one of the PFRA's members, whilst collecting in the City of London, was told to stop collecting by a City of London Police Officer. The method of collecting was as described in paragraph five above. The letter claimed that the actions of the collectors were legal and asked the Corporation to confirm that we would not stop collectors from carrying on their legal activities in the future.
7. Accompanying the letter was a legal opinion they had sought from Nigel Jones QC on 23 February 2011. In summary the legal opinion stated that the legislation requiring permits for charitable collections only concerned the collection of money and that bank mandates could not be construed as money.
8. The aforementioned legal opinion did not refer to the practice known as 'textgiving' and a further opinion was sought by the Corporation on whether this practice required a permit. The opinion was received on the 14 December 2011 from Robert O'Sullivan QC. In summary the opinion concurred with that of Nigel Jones QC and concluded that a permit was not required in order to make charitable collections through the process of either bank mandates or 'textgiving'.

## **Conclusion**

9. It would appear that legislation has not kept up with advances in technology and banking practices with the advent of 'textgiving' and the widely used practice of paying for items using a direct debit mandate. Neither of which were envisaged when the legislation was drafted in 1916.
10. It is clear from the legal advice received that it is not possible to regulate such practices through existing legislation and the only way that such activities can be regulated is for Parliament to amend the current legislation to bring such activities into the regulatory framework. The Remembrancer has advised that the government does not have any plans to make any changes, neither is it likely that it will do so in future.

## **Corporate & Strategic Implications**

11. There are no implications arising from this report.

### **Background Papers:**

- Legal opinion of Nigel Jones QC
- Legal opinion of Robert O'Sullivan QC

### **Contact:**

Peter Davenport, 020 7332 3227

[peter.davenport@cityoflondon.gov.uk](mailto:peter.davenport@cityoflondon.gov.uk)