



Section B

Consumer protection

B1

Street collections

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B1: Street collections

Consideration of whether applicant for permit is fit and proper person –
confusion between role of council and role of Charity Commissioners –
application of the Rehabilitation of Offenders Act

Mr Wren was the administrator of a charity. He complained that a council unreasonably refused him a street collection permit to collect on behalf of the charity. As a result, the charity was denied the opportunity to carry out street collections in the council's area.

Consideration of applicant

1. The Ombudsman noted that the regulations in force were silent about the steps to be taken by a council in satisfying itself that a street collection permit could properly be given to a person who applied for one. The regulations did not, for instance, specify that a council had to satisfy itself that an applicant was a fit and proper person, and gave no sanctions for police checks into convictions known against any applicant for a permit.

2. But the Ombudsman commented:

"I do not consider that the council's policy of satisfying itself that an applicant is a fit and proper person is unreasonable. As a matter of public policy it seems right for the council to take the view that it should not give permits to persons who might steal charitable donations or who might represent a danger to the public. Given that, its practice of making police checks and taking account of the evidence it receives seems to me a reasonable way of reaching a view on the fitness of any person applying to it."

Confusion of roles

3. But, the Ombudsman said, the council went far beyond that. There was confusion between the role of the council and the role of the Charity Commissioners. The Ombudsman did

not consider it was the council's job to administer the Charities Acts.

4. Yet here the council's auditors examined the charity's accounts and the relationship between income and charitable expenditure; it asked for details of the trustees' travelling expenses, of agreements between the charity and its fund raisers and of the recipients of charitable donations. In the absence of any statutory authority for the council to consider those issues, the Ombudsman said, they were matters for the Charity Commissioners. So they were irrelevant considerations for the council to take into account when determining an application for a street collection permit. To take those matters into account was maladministration.
5. Indeed, the Ombudsman said, the council went further still. It asked Mr Wren to secure permission of the trustees to submit to police checks. The Ombudsman could see no possible justification for that request. Whether a street collector was a fit and proper person to hold a permit could be a relevant consideration as to whether a permit should be granted. But whether someone else who was not the applicant was a fit and proper person to be the trustee of a charity was a matter for the Charity Commissioners. It was none of the council's business. The Ombudsman said the council's requirement was both oppressive and irrelevant. Demanding that the trustees should submit to police checks was maladministration.
6. The Ombudsman concluded the council had no reasonable justification for refusing Mr Wren the street collection permit he sought. The result was that the charity lost income. It was also the case, the Ombudsman considered, that Mr Wren could feel a justifiable sense of

outrage at the way he was treated by the council, and that he was put to considerable time and trouble in pursuing the matter with the council and with the Ombudsman.

Rehabilitation of Offenders Act 1974

7. The Ombudsman did not think the council complied with this legislation. The council's application form sought consent to a police check including spent convictions. That was contrary to the requirements of the Act and directly contradicted Home Office guidance on police checks issued for the far more onerous duty of licensing taxi drivers.

8. What was required was for the council to identify what it properly and reasonably considered were relevant classes of spent convictions. To require applicants to agree to a check on spent convictions without limitation in type or time was maladministration.

Remedy

9. The Ombudsman recommended that the council should make the charity an *ex gratia* payment of £1,000, and review its administration of charitable street collection permits.

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