

Memorandum of Understanding

Regulation of Charity Street Collectors

Brisbane City Council (**Council**)

The State of Queensland represented by the Department of Justice and Attorney-General (through the Office of Fair Trading) (**OFT**)

Memorandum of Understanding – Regulation of Charity Street Collectors

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Memorandum of Understanding – Regulation of Charity Street Collectors

Details

Date: 8 January 2016

Parties:

Name **The State of Queensland represented by the Department of Justice and Attorney-General (through the Office of Fair Trading) ABN 13 846 673 994**

Short form name **OFT**

Notice details Level 2 Executive Annexe
102 George Street
BRISBANE QLD 4000

Postal Address GPO Box 3111
BRISBANE QLD 4001

Name **Brisbane City Council ABN 72 002 765 795**

Short form name **Council**

Notice details 266 George Street, Brisbane, Queensland Q 4000

Postal Address Attention Mr Sean Hodgson
C/- Brisbane City Council
GPO Box 1434
Brisbane Queensland 4001

Background

- A. OFT is a responsible entity for the purposes of administering the *Collections Act 1966* (Qld) (**the Act**).
- B. The Act empowers OFT to (among other things) control street collection by charities by fixing the maximum number of days on which street collection for any purpose may be made and imposing conditions on the conduct of street collectors.
- C. The parties wish to work cooperatively to ensure compliance by street collectors with the Act and any condition imposed by the *Collections Regulation 2008* (Qld) (**the Regulation**).
- D. This Memorandum of Understanding (MoU) sets out to qualify the cooperative working arrangements between Council and OFT for the regulation of charity street collection in accordance with the provisions of the Act and the Regulation.

1. Purpose, Scope and Objectives

1.1. Purpose

Though this MoU does not legally bind the parties, it clarifies the responsibilities of the parties and provides a common approach to the management of street collectors.

1.2. Scope

This MoU applies to all public footpaths, thoroughfares and public spaces (such as parks, malls, easements and laneways) used by street collectors in the Central Business District (CBD) of the City of Brisbane.

1.3. Objectives

The objectives of this MoU are to:

- (a) ensure street collectors comply with the conditions imposed by OFT for the collection of funds for charities;
- (b) reduce the number and frequency of street collectors collecting in the same location and/or for the same charity;
- (c) address areas of public complaint about the conduct and behaviour of street collectors; and
- (d) identify improvement opportunities for the ongoing management of street collectors including the regulation of street collectors who have failed to obtain the permit required by the *Collections Act 1966* (Qld).

2. Period of the Memorandum of Understanding

This MoU will operate from the date of signing for a period of three years at which time the parties may seek to review the terms with a view to continuing the service.

3. Roles and Responsibilities of the Parties

3.1. Roles and Responsibilities of OFT

In the context of this MoU, OFT is responsible for:

- (a) consulting with Council regarding opportunities to review and update the Act and the Regulation to improve the regulation of street collectors within the CBD;
- (b) directing authorised street collectors to comply with the Council/OFT endorsed *Acceptable Conduct Guidelines for Charity Street Collectors* as a condition of approval to collect by OFT;
- (c) establishing and implementing methods to record and collate empiric data as well as relevant observations concerning street charity collectors including levels of compliance with the Act and Regulation and *Acceptable Conduct Guidelines for Charity Street Collectors*, complaints received from the public by OFT or Council and general public perceptions of street charity collectors; and
- (d) liaising with Council on relevant OFT compliance activities and overall outcomes including:

- (i) sharing information collected by OFT in accordance with clause 3.1(c) and any information about serial offenders of the Regulation and *Acceptable Conduct Guidelines for Charity Street Collectors*;
- (ii) undertaking pro-active partnered inspections of permitted street collectors where agreed with Council officers to assess compliance levels; and
- (iii) advising of permits issued to charities in Brisbane so that observations as to behaviours and other issues can be pro-actively undertaken by Council.

3.2. Roles and Responsibilities of Council

In the context of this MoU, Council is responsible for

- (a) consulting with OFT regarding opportunities to review and update the Act and the Regulation to improve the regulation of street collectors within the CBD;
- (b) liaising with OFT about organisations / circumstances involving street collectors that present genuine grounds for concern in terms of failure to abide by the *Acceptable Conduct Guidelines for Charity Street Collectors*; and
- (c) providing, at the request of OFT, authorised and suitably experienced compliance officers to participate in partnered inspections and patrols of the areas nominated by this MoU.

4. Nominated Representatives

Both parties agree to nominate senior representatives to give effect to this MoU and:

- (a) to assist in the development and coordination of effective regulatory practice;
- (b) to review and identify improvements to the Act and the Regulation to improve the regulation of street collectors; and
- (c) to review the MoU prior to its expiry or, upon mutual agreement, at any other time during the term of this MoU.

5. Communication and Announcements

- (a) Good communication will ensure the agreement works effectively. Both parties commit to:
 - (i) open communication and rapid resolution of any issues, problems, and disputes; and
 - (ii) consultation on changes that impact on each other's operations and responsibilities.
- (b) Each party will consult and liaise with the other on the content of any proposed media releases concerning street collectors in the Brisbane CBD. Neither party will publish any reference to the other party in respect of street collectors in the CBD without that party's prior approval.
- (c) The parties acknowledge there is a general expectation that each party engages in direct communication with each other on at least a quarterly basis to ensure regular and genuine discussion about the matters raised in this MoU and further opportunities to improve the current regime.

6. Dispute Resolution

Both parties are committed to comply with all terms of the MoU. If disputes arise, the parties, as represented by the signatories of this MoU will engage to resolve the issues as a matter of priority.

7. Definitions and Interpretation

7.1. Definitions

In this Memorandum of Understanding, the following definitions apply:

- (a) **CBD** means the Central Business District of the City of Brisbane and includes Fortitude Valley, South Bank, Spring Hill, West End and such other areas identified by Council as requiring monitoring.
- (b) **Street Collection** means any appeal for support for certain purposes as noted in Part 3, section 9, of the *Collections Act 1966*.
- (c) **Street Collector** means any person who collects donations from the public of money or articles for use in relation to any appeal or support conducted by a charity.

7.2. Interpretation

The following interpretation applies to this MoU, unless the context otherwise requires:

- (a) reference to the singular includes the plural and vice versa; and a gender includes all genders;
- (b) headings are for guidance only and will not affect interpretation;
- (c) reference to a party, clause, paragraph, schedule or attachment is reference to a party, clause, paragraph, schedule or attachment of this MoU; and
- (d) reference to a person includes an individual, body corporate, association, trust or partnership or government body or department.

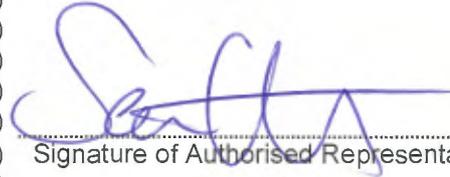
Signing Page

Memorandum of Understanding between the Brisbane City Council and The State of Queensland represented by the Department of Justice and Attorney-General (through the Office of Fair Trading) for the regulation of Charity Street Collectors.

Signed Sealed and Delivered by **Brisbane City Council** ABN 72 002 765 795 by its duly authorised representative:

SEAN HODGSON

Name of Authorised Representative


Signature of Authorised Representative

in the presence of:

Kassandra Mathams

Name of Witness

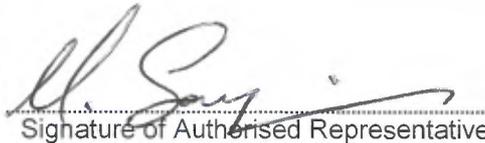

Signature of Witness

Date: 8 / 1 /2016

Signed Sealed and Delivered by **The State of Queensland represented by the Department of Justice and Attorney-General (through the Office of Fair Trading)** ABN 13 846 673 994 by its Authorised Representative:

MICHAEL BERNARD SARQUIS

Name of Authorised Representative


Signature of Authorised Representative

in the presence of:

JOAN YOUNG

Name of Witness


Signature of Witness

Date: 23 / 12 /2015

Acceptable Conduct Guidelines for Charity Street Collectors

OVERVIEW

Charities are permitted under the *Collections Act 1966* (Qld) (**the Act**) and the *Collections Regulation 2008* (Qld) (**the Regulation**) to apply for a permit to carry out Street Collections. The Office of Fair Trading (**OFT**), Department of Justice and Attorney-General is responsible for administering the Act and the Regulations.

Schedule 1 of the Regulation provides “*a collector must not...(a) by words or conduct, unreasonably annoy any person approached during a collection*”. The Regulation prescribes no further definition or explanation of the term ‘*unreasonably annoy*’, however any assessment of the conduct will be at the discretion of the OFT inspector, Queensland Police Service officer or an officer of Brisbane City Council, given all factual circumstances present at the time.

The purpose of this Guideline is to provide guidance and clarity to Charities (and organisations who supply charity collectors for use by Charities) on acceptable standards of behaviour of collectors while carrying out street collections.

This Guideline is to be read in conjunction with any conditions of approval issued by the OFT.

APPLICABILITY

This Guideline applies to all persons who authorise or supply Street Collectors or undertake Street Collections.

DEFINITIONS

“**CBD**” means the Central Business District of the City of Brisbane and includes Fortitude Valley, South Bank, Spring Hill, West End and such other areas identified by the OFT in consultation with other key stakeholders as requiring monitoring.

“**Deliberately**” means a considered, studied or intentional action.

“**Obstruct**” means to impede the motion or progress of pedestrians or passers-by and includes any deliberate action that causes a person to involuntarily stop or suddenly change direction in order to get past the Street Collector and continue their journey.

“**Public Place**” means any place where members of the public go even when they have no legal right to do so, or any place where they are invited to go.

“**Street**” means any road within the meaning of the *Transport Operations (Road Use Management) Act 1995*, including any place to which the public have access and which adjoins.

“**Street Collection**” means any appeal for support for certain purposes as noted in Part 3, section 9, of the *Collections Act 1966*.

“**Street Collector**” means any person who collects donations from the public of money or articles for use in relation to any appeal or support conducted by a charity.

ACCEPTABLE CONDUCT

Mandatory documentation

A Street Collection must not be made without an assignment and authority to collect, in accordance with the Act and the Regulation.

A Street Collector must keep with them at all times copies of both documents issued under the legislation and produce them when requested to do so by an OFT inspector, Queensland Police Service officer, an officer of Brisbane City Council or any other person.

Age of Collectors

A Street Collector must be aged 15 years or older unless accompanied by an adult.

General Conduct of Street Collectors

Street Collectors must:

- (a) only collect at the times and in the areas stipulated in the permit;
- (b) remain within three metres of their approved location and stand at least 25 metres from any other Street Collector from another organisation;
- (c) use positive, respectful and polite language and not behave in a way that might be reasonably interpreted as forcing a member of the public to enter a conversation against their will;
- (d) not conduct the Street Collection in a manner likely to annoy or inconvenience anybody and must not implore any person to their annoyance or in a manner which disrupts or impedes a person's daily activities; and
- (e) comply with the Conduct Rules.

CONDUCT RULES

1. Best Behaviour

While carrying out a Street Collection, the Street Collector must not behave:

- (a) in any way that might reasonably cause members of the public to be or become excessively startled or anxious;
- (b) in any way that might reasonably cause other passers-by in the immediate vicinity to be or become excessively startled or anxious;
- (c) dishonestly, manipulatively or deliberately use guilt to shame members of the public into donating;
- (d) in any manner which includes the use of misleading and deceptive behaviour; and
- (e) in any other way that a reasonable person might judge brings the charity they are representing into disrepute.

2. Deliberate Obstruction

While carrying out a Street Collection, the Street Collector must not deliberately obstruct members of the public.

3. Vulnerable Members of the Public

Street Collectors must not knowingly sign up any person at any time who they reasonably conclude is or may be incapable of informed consent for any reason, including but not limiting:

- (a) a person under 18 years of age, except with the expressed consent of a parent or legal guardian;
- (b) intoxication through drugs or alcohol;
- (c) incapacity due to illness or disability;
- (d) age-related confusions or learning difficulties;
- (e) language competence; and
- (f) any other circumstance where capacity is in doubt.

4. Approaching Members of the Public

- (a) Once a Street Collector has made an approach to a member of the public, the Street Collector must not take more than three steps alongside or in pursuance of that member of the public, even when asked to do so. If a member of the public has not come to a halt within the three steps, the attempted engagement must be discontinued.
- (b) Street Collectors must not initiate physical contact with a member of the public and must immediately end a conversation with a member of the public as soon as they are requested to do so.
- (c) Street Collectors must not approach people who are "on duty" including uniformed officers.
- (d) Street Collectors must not approach members of the public who are seated on street furniture or are seated in the outdoor seating areas of a private business.
- (e) Street Collectors must ensure that they are at least 3 metres from:
 - (i) a shop entrance;
 - (ii) a marked foot crossing;
 - (iii) an ATM machine;
 - (iv) a station entrance;
 - (v) street traders;
 - (vi) members of the public in queues (i.e. for a tourist attraction, tour group, bus queues etc.);

- (vii) Big Issue and Newspaper sellers; and
 - (viii) buskers.
- (f) For the avoidance of doubt, clause 4(e) does not apply to:
- (i) one-off cash based Street Collections for recognised one-day charity campaigns including Daffodil Day, Red Nose Day, ANZAC Day and Remembrance Day or similar campaigns; and
 - (ii) Street Collectors who collect cash (coin and notes) only donations using compliant fundraising collection boxes or receptacles.