

Runnymede Borough Council

REGULATORY COMMITTEE

23 September 2008 at 7.30 p.m.

Members of the Committee present: Councillors D W Parr (Chairman), R J Edis, Mrs M T Harnden and C Knight.

Members of the Committee absent: Councillor Mrs P I Broadhead

222. MINUTES

The Minutes of the meeting of the Committee held on 9 April 2008 were confirmed and signed as a correct record.

223. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs P I Broadhead.

224. FINANCIAL MONITORING STATEMENT

(Ref: Minutes of Regulatory Committee, April 2008, page 695, para. 641)

The Committee received for information the latest budgetary position for the services under the remit of the Regulatory Committee.

The Committee noted that although the planned savings, from the target set in 2005, had been met, this did not include the subsequent target to reduce the net cost of the Regulatory service.

Members commented that there was little scope to achieve further savings in these budgets where fees were largely set by statute and no profit could be made from running the service.

225. STANDARDS AND CONDITIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND VEHICLES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Committee's approval was sought to make amendments to the Standards and Conditions for the drivers of Hackney Carriage and Private Hire Vehicles.

Officers wanted to ensure, so far as possible, that the safety of the public was being maintained by raising the minimum age that new applicants could become licensed Private Hire Drivers and increasing the length of time that new drivers had to be holders of full DVLA licences before becoming either a Hackney Carriage and Private Hire Driver.

The Committee was advised that currently drivers could become licensed to drive Private Hire vehicles at the age of 18 but would have to wait until they reached the age of 21 before being able to drive a Hackney Carriage. The Committee agreed that as the functions of both types of driver were similar it was sensible to have a consistent approach and to set the age at 21 years.

It was confirmed that none of the current drivers would be affected by the proposals as the youngest was 23 years old.

In respect of experience, Members were keen that drivers should have as much practical driving experience as possible before being entrusted with the responsible role of carrying passengers, often on motorways, at night and in busy traffic; skills that a newly qualified driver would not have.

Members expressed concern that there was no test for motorway driving, although the 'pass plus' scheme was optional for new drivers who sought further instruction in this and other areas. The DSA test provided an additional testing level for potential Hackney Carriage and Private Hire drivers.

The Committee agreed, having regard for the minimum years experience set by other boroughs to set the level at 2 years, which it was considered was sufficient, in the light of the new minimum age condition of 21 to become a Hackney Carriage or Private Hire driver.

Members also considered the Criminal Records Bureau and DVLA checks that new drivers underwent before being licensed, noting an inconsistency which provided a loop hole for foreign nationals and British nationals that had lived abroad not to declare convictions which might have been acquired abroad.

The Committee agreed that in the interest of maintaining high standards of security and safety it would be prudent to require British nationals that had lived abroad in the last five years, and foreign nationals permitted to work in the UK, to either produce evidence to the effect that they were 'fit and proper' persons to be licensed, or such authorisation as was necessary to facilitate relevant enquiries to be carried out with the appropriate embassy, consulate or high commission.

**RESOLVED that –**

- i) the minimum age for Private Hire drivers be set at 21 years**
- ii) the minimum time a new Hackney Carriage or Private Hire driver is required to have held a full DVLA licence to drive a motor car be increased from one to two years;**
- iii) the Policy regarding the evidence provided by applicants be amended in respect of previous convictions, to require the applicant to declare any foreign convictions, if they have lived abroad during the previous 5 years, prior to making their application and to facilitate obtaining evidence from a foreign Embassy if necessary; and**
- iv) the standard conditions for Hackney Carriage and Private Hire drivers and vehicles be amended accordingly**

226. CHARITIES ACT 2006 – UPDATE

(Ref: Minutes of Regulatory Committee, September 2007, page 390, para. 273 and November 2007, page 601, para. 397)

Members were advised that two relevant parts of the Charities Act 2006 had come into force and noted how they affected the way Public Charitable Collections were dealt with.

Members were informed that the first and third Commencement Orders under the Act were not strictly relevant to the administration of Charitable Collections. The second Commencement Order (November 2007) and effective from 1 April 2008, made changes to the requirements in the Charities Act 1992 relating to solicitation statements of professional fundraisers and commercial participators, and brought in a new requirement for those involved in running a charity – its trustees and employees, to make a simple statement when being paid to collect in public.

Officers confirmed that face to face fundraisers now had to be upfront about how much remuneration they or their employer were receiving from the charity in question to sign people up to giving to that charity by direct debit.

The Committee noted that the Office of the Third Sector had completed its consultation on draft guidance in respect of professional fund-raising and commercial participation in May 2008 but that it had no practical bearing on the administration of charitable collections at that stage.

Members' attention was drawn to the provisions commenced by the fourth order as set out below:

- The statutory definition of charity, including the list of headings of charitable purposes and the public benefit requirement;
- The removal of the presumption of public benefit for charities established for the advancement of education, the relief of poverty or the advancement of religion;

- The requirement for charity trustees to have regard to the Charity Commission's guidance on public benefit, when exercising powers or duties to which the guidance was relevant;
- Provisions of the Charities Act 2006 that related to the preparation and scrutiny of charity group accounts, and provisions clarifying the whistle-blowing duties of auditors or independent examiners.
- Provisions relating to Miners' Welfare Trusts and Community Amateur Sports Clubs would not come into force until 1 April 2009.

Members understood that the updating of the definition of charitable purposes was the most relevant part and appreciated the need to draw this to the attention of the Charitable community locally.

Officers had updated and amalgamated the Street and House to House Collections Criteria to reflect the changes and the Committee approved them accordingly. In doing so, Members noted guidance from the Office of the Third Sector, which made it clear that if a charity did not hold an Exemption Order (which exempted them from the need to apply for a House to House Collections Licence), they, or the organisation acting on their behalf, must apply to the local authority for a House to House Collections Licence.

Officers assured the Committee that holders of the Home Office Exemption Order, whether conducting a collection themselves, or engaging the services of another agent to collect on their behalf, still needed to demonstrate probity and accountability in line with that guidance; to retain overall control of the fundraising activity and comply with all the relevant Regulations.

The Committee was aware that until the Regulations made under the Charities Act 2006 appeared, the current Regulations governing Street and House to House Collections remained in force.

The Committee endorsed updated application forms for Street and House to House Collections and new guidance notes for applicants. These set out the new definitions of charitable purpose, the application process, what was expected of applicants, and what would happen if they failed to comply with the Regulations.

**RESOLVED that –**

**the revised Street and House to House Collections Criteria as attached at Appendix 'A' be adopted with immediate effect and the associated guidance notes for applicants be endorsed**

Chairman

(The meeting ended at 7.50 p.m.)