

Runnymede Borough Council

REGULATORY COMMITTEE

25 September 2007 at 8.40 p.m.

Members of the Committee present: Councillors D.W. Parr (Chairman), R.J. Edis, C. Knight and B.J. Relph

Members of the Committee absent: Councillor Mrs P.I. Broadhead (Vice-Chairman)

Councillor Ms. R.E. Haylor also attended.

269. MINUTES

The Minutes of the meeting of the Committee held on 14 June 2007 were confirmed and signed as a correct record.

270. APOLOGIES FOR ABSENCE

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

271. FINANCIAL MONITORING STATEMENT

(Ref: Minutes of Regulatory Committee, June 2007, page 59, para. 83)

The Committee noted that the latest financial projections for services within the remit of the Regulatory Committee remained stable at £43,000 budgeted until 2010/11 with only a slight variance to date of (£3,846) on income from taxi fees and licences.

272. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS CONDITIONS – DVLA DRIVING LICENCE CHECKS – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – CONDITIONS ADDITIONAL TO THE REQUIREMENTS OF PART 11 OF THE ACT

The Committee approved a proposal to amend the standard licence conditions for both Hackney Carriage and Private Hire drivers to require drivers to consent to a 'subject access' check being lodged with the DVLA on initial application and at three yearly intervals thereafter to coincide with the triennial CRB check, or at the discretion of the Senior Licensing Officer.

Officers advised the Committee that although the CRB checks were very useful they did not record endorsements that a driver might incur unless it was a 'notifiable' driving related offence such as  
drink  
driving.

Members were informed that the aim of the proposed policy, which was in line with the practice of other local authorities, was to ensure that the driving licence submitted to Officers on application for and renewal of a driver's licence for Hackney Carriages and Private Hire vehicles was correct and bearing the most up to date information with regard to any endorsements that a driver might have incurred.

Officers explained that it was possible for drivers to withhold information about endorsements by either not submitting their driving licence counterpart to the DVLA or by applying for a replacement licence on which to record endorsements but retaining the 'original' to show at inspection time. Although this practice was rare, Officers had found evidence of one Private Hire driver who had retained a revoked licence and his Private Hire Driver's Licence had been revoked.

By requiring drivers to authorise a subject access check to be made (at an additional cost of £5 to be incorporated into the standard fees payable by the driver) the most recently issued licence number would be revealed, which could be checked against the licence produced by the driver.

Members agreed this was a sensible proposal in order to ensure as far as possible that Runnymede's Taxi drivers were 'fit and proper'.

**RESOLVED that –**

**the Standard Licence Conditions be amended to require licensed Hackney Carriage and Private Hire Drivers to provide authorisation for the Licensing Authority to obtain details of their driving licence details from the DVLA;**

- i) upon initial application for a Hackney Carriage or Private Hire Drivers Licence;**
- ii) to coincide with the triennial CRB check; and**
- iii) at such other time deemed necessary by the Senior Licensing Officer.**

273. CHARITIES ACT 2006 – UPDATE AND DRAFT POLICY

(Ref: Minutes of Regulatory Committee, January 2006, page 809, para. 516)

The Committee received an update on progress with the Charities Act 2006, considered a draft policy for the administration of public charitable collections prior to public consultation thereon and considered the delegation of authority to the Director of Administration and Leisure to deal with public charitable collections upon the Regulations becoming effective.

Members recalled that the Charities Act 2006 had received Royal Assent in November 2006. A year on the regulations pertaining to the licensing and regulation of Public Charitable Collections had not been issued and were not expected until 2009.

In the meantime, Officers felt it prudent to prepare, for public consultation, a draft policy for the administration of public charitable collections based on information in the Act which was known.

The Committee was assured that if the Regulations contained any provision(s) that conflicted with the draft policy, it would be amended accordingly to comply.

The first part of the draft policy defined who might carry out public charitable collections and for what purpose as set out in the Act. It also set out the role and process of the Charity Commission to issue suitable organisations with a Public Charitable Collections Certificate which they would need as a first step towards carrying out charitable collections of any kind, whether licensed or not.

Officers confirmed that street and house to house collections, as well as canvassing for direct debit pledges on behalf of a named charity or charities, were all covered by the new regime.

Members were advised that charitable collections could not be directed towards private gain. In practice this meant that an appeal, for example, to send one child for specialist hospital treatment was not allowed, but a fund directed to that purpose for the benefit of helping more than one child would be.

A major change from the current regime was that collections made from door to door no longer required a licence. However, the promoter of the collection would be required to notify the local authority precisely when their collection was taking place and in which area of the borough.

The draft policy defined the locations in which public charitable collections could take place and addressed circumstances including car boot sales, appeals made on publicly owned open spaces and organised events in public places. It was confirmed that in the case of Council owned spaces a double process of permission would be required – first from the landlord and secondly for the fundraising element of the event.

The draft policy also listed the known exemptions to the requirement to be licensed by the local authority. It was understood that the regulations might make additions to be incorporated later.

Members noted that an outstanding exemption from the requirement to be licensed – not yet defined – was that of ‘local, short term’ collections. Once clarified by the Regulations, Officers would need to give consideration on a case by case basis as to which were local and short term, as those not classed as such would need to be licensed.

Members also noted that proscribed forms on which to make applications had not yet been issued. These were expected to arrive with the Regulations.

The policy also set out the way in which it was proposed to deal with applications for a public collections licence. In essence, these derived from existing good practice and the current regime, moulded to acquiesce with the Regulations.

Members agreed that in respect of applications made to undertake the soliciting of direct debit pledges Officers should retain control of the 'diary' to ensure that all charitable organisations were treated fairly and consistently.

Members noted that Officers would in limited circumstances be able to refuse permission for collections to take place, or restrict their radius and length of operation if it was deemed that the collection might cause undue inconvenience to members of the public. Officers would also be able to withdraw or vary a licence if problems of conduct or a breach of the Regulations took place. Members agreed that delegated authority be given to the Director of Administration and Leisure to deal with all these circumstances.

Members were disappointed that if a charity or other licence holder appealed against a decision made by the Council (appeals would be made to the Magistrates' Court) to take action in respect of a licence, the licence would continue to have effect unaltered until the time for bringing an appeal had expired or until an appeal had been determined.

Officers shared their concern but hoped that stronger links between local authorities, the police and the Charity Commission would reduce the risk of such practices continuing for very long.

Officers were also critical that in the spirit of self regulation the Act fell short of requiring the promoter to account for the proceeds of the collection formally by way of a return. However, if it was not contained in the Regulations, Members agreed to make it a local requirement to submit some form of return within three months of the collection, and in the case of direct debit collectors evidence of how many 'sign ups' had been secured during the collection period. The draft policy stated that at least 50% of the proceeds of a collection by whatever means must be applied to charitable, benevolent or philanthropic purposes, again, defined by the Act.

**RESOLVED that –**

- i) upon the regulations becoming effective, the Director of Administration and Leisure be authorised to:**
  - **determine and grant applications made under the Act in accordance with the provisions contained therein;**
  - **determine whether a collection is local and short term in accordance with the regulations and issue notices to the effect that a collection is not exempt, or local and short term where appropriate;**
  - **refuse applications , vary, attach conditions, vary conditions of licences and withdraw licences in accordance with the provisions of the Act; and**
- ii) the draft policy attached at Appendix 'A' be approved for the purposes of public consultation and following consideration of any comments arising from the public consultation, the final Policy be submitted to a future Council Meeting for approval.**

274. APPEAL AGAINST REFUSAL TO ISSUE A PRIVATE HIRE VEHICLE DRIVER'S LICENCE  
(Ref: Minutes of the Regulatory Committee, May 2007, page 6, para. 23)

By resolution of the Committee, the press and public were excluded from the meeting during the consideration of this matter under Section 100A (4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information of the description specified in paragraphs 1,2,3 and 7 of Schedule 12A to Part 1 of the Act.

Members noted, with disappointment, the outcome of a successful appeal made by Mr A against this Committee's refusal to issue him with a Private Hire Driver's Licence at its meeting on 22 May 2007.

Chairman

(The meeting ended at 9.05 p.m.)