

Runnymede Borough Council

REGULATORY COMMITTEE

17 November 2009 at 7.44 pm

Members of the Committee present: Councillors D W Parr (Chairman), Mrs F J Barden (Vice-Chairman), R J Edis, Mrs M T Harnden and Mrs M Roberts.

Members of the Committee absent: None

Councillors R N Jones, C Knight and H W V Meares also attended.

405. FIRE PRECAUTIONS

The Chairman read out the fire precautions.

406. MINUTES

The Minutes of the meeting of the Committee held on 22 September 2009 were confirmed and signed as a correct record.

407. FINANCIAL MONITORING STATEMENT

(Ref: Minutes of Regulatory Committee, September 2009, page 265, para 283)

The Committee received for information the Financial Monitoring Statement showing the latest financial projections for the 2009/10 financial year for Regulatory related matters.

Members noted a slight shortfall in income from taxi licensing and their target of £5,000 revenue reductions yet to be achieved.

408. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND VEHICLES – STANDARDS AND CONDITIONS

(Ref: Minutes of Regulatory Committee, September 2009, page 265, para 284)

Members reviewed the conditions relating to the employment of drivers of Hackney Carriages and Private Hire vehicles who had insulin treated Diabetes Mellitus in the light of guidance issued by the Driver and Vehicle Licensing Authority (DVLA), the Department for Transport and the Secretary of State's Honorary Medical Advisory Panel.

The Committee recalled that Taxi Drivers were subject to more rigorous standards than normal drivers given their responsibility for the welfare of themselves and paying customers whilst driving.

At the last meeting of the Committee it had been resolved to maintain the application of the Group 2 standard applied by the DVLA which precluded the licensing of drivers with insulin treated Diabetes because of the need to prioritise public safety heightened by the increased length of time that taxi drivers spent at the wheel in the course of their occupation.

It was noted that drivers who treated their Diabetes with tablets or through their diet could generally satisfy the Group 2 standard unless they developed relevant disabilities which would result in their licence being revoked, or refused if a new applicant.

Officers had been instructed to conduct some research into the subject and assess how other local authorities responded to the issue.

The Committee was advised of an anomaly in the advice issued to local authorities. Whereas the guidance from the Department for Transport (DfT) (published in 2006) recommended application of the Group 2 Standard, the Secretary of State's Honorary Medical Advisory Panel on Diabetes Mellitus and Driving (published 2009), suggested that the C1 Criteria used by the DVLA for 'exceptional circumstances' as set out below might be more appropriate:

The individual must:

- a) not be able to apply for a taxi drivers licence or in the case of an existing licensed driver not to drive a licensed taxi, until their condition has been stable for a period of at least one month;
- b) not have had any hypoglycaemic attacks requiring assistance whilst driving within the previous 12 months;
- c) regularly monitor their condition by checking their blood glucose levels at least twice daily and at times relevant to driving. It is advised to use memory chip meters for such monitoring;
- d) arrange to be examined every 12 months by a hospital consultant who specialises in Diabetes. At the examination the consultant will require sight of their blood glucose records for the last 3 months;
- e) have no other condition which would render the driver a danger when driving C1 vehicles or Hackney Carriages and Private Hire vehicles; and
- f) sign an undertaking to comply with the directions of the doctor(s) treating the Diabetes and report immediately to Runnymede Borough Council any significant change in their condition.

This was further complicated by the DVLA's category D1 drivers of passenger carrying vehicles with a capacity of between 9 and 16 passengers. Such drivers with insulin treated Diabetes could not benefit from the six exceptions applying to C1 drivers and the DVLA had issued draft guidance in 2009 reiterating that point.

Through the National Association of Licensing and Enforcement Officers, Officers had received responses from 58 other local authorities, the results of which had shown that 96% adhered to the Group 2 Standard, although 76% did not adhere strictly to its requirements. 61% of respondees applied the C1 conditions to drivers who were insulin dependent diabetics, with a further 17% possibly applying a lesser requirement by dealing with each case on its merits.

The Committee discussed the issues in detail, and were mindful that if they relaxed the current standards it might lead to a future situation of a number of drivers having their licences revoked or new applicants refused a licence, should new guidance direct that the Group 2 standard should be maintained.

Members were informed that a relatively new drug, popularly know as Byetta or Exenatide, had been used widely in the United States and was now available for use in the UK to treat Type 2 Diabetes as an alternative to insulin.

It was suggested that the use of Byetta might enable drivers to avoid contravening the Group 2 standard. However, there were side effects which made its use unwise without further research being undertaken.

Members noted that in other professions those with Insulin treated Diabetes were not precluded from operating complicated machinery including that for the conveyance of a large number of passengers, including some aeroplanes.

It was agreed that the matter was one of risk management; balancing public safety, human rights, trust in drivers and the general approach the Council wished to take regarding the taking of any medication whilst driving. In doing so, the Committee was sympathetic to the argument of treating each applicant on their own merits until such time as legislation forced a particular policy to be adopted. This approach appeared to be in line with a number of other local authorities.

**RESOLVED that –**

**drivers with insulin treated Diabetes who are applying for a Hackney Carriage or Private Hire licences, and existing licensed Hackney Carriage and Private**

**Hire drivers who develop insulin treated diabetes should be treated as "Exceptional cases" in relation to this medical condition provided that they have no significant complications, can meet the C1 criteria contained within this report and can otherwise satisfy all the other licensing requirements set by legislation and Runnymede Borough Council, and the Standard Conditions for Licensed Vehicles be amended as necessary.**

409. COMMERCIAL AND CHARITABLE CLOTHING COLLECTIONS AND CHARITIES ACT 2006

The Committee noted the current position in respect of commercial and charitable clothing collections; those which required licensing, and those which operated without permission or co-operation with the local authority.

The distinction was drawn between the legitimate activities of registered charities and/or companies operating on their behalf under a Home Office Exemption Order and the companies that carried out unauthorised and random leaflet drops followed by collections in unmarked vans. Members noted that if the leaflets indicated some form of charitable element a House to House Collections Licence was required.

Members were advised that despite the Charity Commission's 'Give with Care' campaign which encouraged the public to check the validity of those who sought donations, many commercial clothing companies carried out unauthorised clothing collections nationwide and were estimated to divert a significant sum from legitimate charities each year.

Members were cautioned that under current legislation, first drawn up in 1939, there were very few grounds to refuse a House to House Collections Licence, particularly if the charity in question supported the application made by a company proposing to collect on its behalf.

In addition, there was limited availability of enforcement resources from the Police, Charity Commission and Trading Standards to deal with the problem of unauthorised collections and often the activities in question did not fall under the remit of any one organisation. In view of this Officers continued to raise the matter of unauthorised clothing collections by other means, including partnership working with other authorities, Safer Runnymede and Neighbourhood Watch.

Officers confirmed that one successful refusal notice had been issued recently and that the company in question had not appealed to the Secretary of State as was their right. However, there were other companies whose applications might have to be granted, pending a change in legislation to make the regulations more robust with regard to remuneration and a minimum amount to be applied to a charitable purpose.

Officers also advised the Committee that following the recent consultation on what they should contain, new Regulations pertaining to the licensing of public charitable collections were likely to be the last part of the Charities Act 2006 to be enacted. This meant a further delay to the process to at least the end of 2011.

Chairman

(The meeting ended at 8.25 pm)