



Regulatory Committee

Tuesday 23 September 2008 at 7.30 pm

**Council Chamber
Civic Offices, Addlestone**

**Please note the Licensing Committee has been cancelled
as per previous notification**

Members of the Committee

Councillors D W Parr (Chairman), R J Edis (Vice-Chairman), Mrs P I Broadhead, Mrs M T Harnden and C Knight

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant "background papers" are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C. Pinnock, Department of Administration and Leisure, Committee Section, Civic Centre, Station Road, Addlestone (Tel. Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr. B.A. Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- iv) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

	<u>PAGE</u>
1. FIRE PRECAUTIONS	3
2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP	3
3. MINUTES	3
4. APOLOGIES FOR ABSENCE	3
5. DECLARATIONS OF INTEREST	3
6. FINANCIAL MONITORING STATEMENT	3
7. STANDARDS AND CONDITIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND VEHICLES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976	4
8. CHARITIES ACT 2006 UPDATE	6
9. EXCLUSION OF PRESS AND PUBLIC	9

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
(No reports to be considered under this heading)
- b) Confidential Information
(No reports to be considered under this heading)

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign, as a correct record, the Minutes of the meeting of the Committee held on 9 April 2008 which were included in the July 2008 Minute Book previously circulated.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. FINANCIAL MONITORING STATEMENT (DF)

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

1. Purpose of Report

1.1 **The purpose of this report is to inform the Committee of the latest financial projections for the 2008/09 financial year for regulatory services.**

2. Background Information

2.1 The Financial Monitoring Statement was introduced to all Committees in September 2006 to inform Members of the current financial position of the services under the remit of each Committee.

2.2 Each statement reflects an updated position based upon the 2008/09 original estimates approved by this Committee in January. The Financial Forecast approved by Council on 1 November 2007 has been updated accordingly.

3. Report

3.1 The statement set out in appendix "A" is split into three distinct parts:

- Projected budget and forecast
- Savings still to be delivered
- Current year key budget indicators

3.2 The Projected budget and forecast sections show any anticipated variations in the current year's budget. These variations are categorised as approved changes and other potential changes. Implications for the following three years are included for completeness so that the full-year effect of any changes can be seen.

3.3 The achievement of the revenue reductions programme approved by the Council is one of the Council's key performance indicators. Savings targets not yet achieved are reported in the second section of each statement. These savings are all incorporated into the projected budget and forecast figures in section one.

3.4 The final section sets out the key budget indicators for the significant areas of this Committee's budget. This indicates the actual income received set against the amount expected (the budget) for the period covered by each statement.

4. Savings Targets

4.1 At its meeting on 26 June 2008, the Corporate Management Committee resolved that a report be prepared for all service Committees requesting them to consider savings proposals for those areas of required savings within their budget which they had not yet achieved. This would include looking at possible alternative methods of achieving savings.

4.2 A statement of the progress towards the achievement of the £2.6 million revenue reductions is attached at Appendix 'B'. This shows that from the planned savings of £2,623,000 the Council had achieved £2,072,000 by the end of 2007/08. Some of the savings were not programmed to be fully achieved until 2008/09 and when these are taken into account the final savings total is expected to be £2,415,000 (shown in the last column of the statement).

4.3 The planned savings attributable to this Committee from the £2.6 million savings target have been met. However, this does not include other savings initiatives that have been pursued subsequently (i.e. reduction in net cost of regulatory service).

(FOR INFORMATION)

Background Papers

None stated.

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

1. Purpose of Report

1.1 **The purpose of this report is to:-**

- i) **seek approval for the introduction of a minimum age of 21 years to become licensed as a Private Hire driver;**
- ii) **seek approval to increase the minimum time a new Hackney Carriage or Private Hire driver has held a full DVLA licence to drive a motor car from one to two years; and**
- iii) **review the Policy regarding the evidence provided by applicants in respect of previous convictions and introduce a requirement that applicants declare any foreign convictions (in addition to any acquired in the UK), if they have lived abroad during the previous 5 years prior to submitting their application for a Private Hire or Hackney Carriage driver's licence.**

2. Background Information

2.1 There is no statutory minimum age for a Private Hire driver; however, given the requirement to have held a full UK licence for one year, an applicant for a Private Hire driver's licence will need to be 18 years or over.

2.2 The minimum age for someone to be granted a Hackney Carriage driver's licence is 21 years.

2.3 Applicants for either a Hackney Carriage or a Private Hire driver's licence are required to have held a full DVLA driver's licence for a minimum of 12 months. This condition has remained unchanged for at least the last 20 years.

2.4 At the moment, applicants wishing to become a Hackney Carriage or Private Hire driver are required to apply for an enhanced Criminal Record Bureau (CRB) check, and once licensed, submit to a similar check of criminal history every three years for the duration of their licence.

3. Report

Minimum Drivers' Age Limit

3.1 The functions of a Hackney Carriage driver and a Private Hire driver are very similar. The main differences are the ability for a Hackney Carriage driver to be hailed in the street, and to wait on a taxi rank. The responsibilities and risks to the fare paying public are identical. The medical requirements are the same, as are the checks on any criminal history. Vehicles may differ only by displaying a 'TAXI' sign on the roof of a Hackney Carriage and the colour of the Runnymede Borough Council licence plate affixed to the rear of the vehicle.

3.2 There are 257 licensed drivers in Runnymede. 142 are Private Hire and the remaining 115 either Hackney Carriage or dual licensed. Only 6 Private Hire drivers and 1 Hackney Carriage driver are under 30 years of age (less than 3%). The youngest driver is 23 years old. Officers recommend that the minimum age for both classifications of driver should be consistent and set at 21 years, as for Hackney Carriage drivers.

Minimum Driving Experience

3.3 The Private Hire Vehicles (London) Act 1998 required Private Hire drivers to be licensed for the first time in the Greater London area. The process of licensing drivers commenced in April 2003 and took 4 years to complete. Applicants are required to be over 21 years of age and to have held a full licence for 3 years.

3.4 Recently, Officers have noted that a greater number of inexperienced drivers have expressed an interest in becoming Private Hire drivers in Runnymede. It has been registered that such interest is often from people residing in areas where licensing conditions are more stringent than Runnymede's.

3.5 Natural staff turnover ensures there is ongoing public demand for licensed drivers and cars. The licensing process from the receipt of applications to issuing the licence takes up to three months owing to CRB, DVLA checks, a medical examination, references, and the driving test. This is frustrating for all concerned, but is necessary to help maintain high standards of public safety.

3.6 Officers consider that balancing public safety and practicality may be achieved by increasing the minimum requirement of driving experience of a full DVLA licence to drive motor cars from one to two years.

3.7 The requirements of neighbouring and nearby Licensing Authorities are set out below:

	Driving Experience	Minimum Age
Runnymede now	1 year	18 years
Elmbridge	1 year	18 years
Woking	1 year	18 Years
Surrey Heath	1 year	21 Years
Runnymede proposed	2 Years	21 Years
Spelthorne	3 Years	21 Years
London (PCO)	3 Years	21 Years

Criminal History

3.8 Applicants who are foreign nationals, with a right to reside and work in this country, and British nationals who have lived abroad could have a foreign criminal history which is not subject to scrutiny. In these circumstances Officers have obtained checks, similar to those of the CRB, by making enquiries with the Embassy concerned in order to reduce the potential risk to the public should the applicant give cause for concern.

3.9 In order to remain fair and consistent in the Council's efforts to maintain levels of safety and security to the public when travelling in a licensed vehicle within Runnymede, Officers recommend that a level of control be imposed on foreign nationals, permitted to work within the UK and British nationals who have not lived within the UK for the last 5 years to produce

evidence to the effect they are a 'fit and proper person' to be licensed. It is also recommended that the applicant should be required to provide such authorisation as is necessary to facilitate such relevant enquiries to be carried out with the appropriate Embassy, Consulate or High Commission.

OFFICERS' RECOMMENDATION 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**

(TO RESOLVE)

Background Papers

None stated.

8. CHARITIES ACT 2006 – UPDATE (DAL)
(Ref: Minutes of Regulatory Committee, September 2007, page 390, para. 273 and November 2007, page 601, para. 397)

1. Purpose of Report

1.1 The purpose of this report is to:-

- i) provide an update on the implementation of the Charities Act 2006;**
- ii) seek approval of updated Street and House to House Collections Criteria; and**
- iii) provide a general overview of Public Charitable Collections for the benefit of new Members of this Committee.**

2. Background Information

- 2.1 At the meeting of this Committee in November 2007, Members noted that the draft policy on the way in which public charitable collections will be dealt with under the new Charities Act 2006 and approved at the previous meeting in September 2007, was to be held in abeyance, pending the arrival of the Regulations made under the Act (expected sometime in 2009) and in the control of the Office of the Third Sector.
- 2.2 The Office of the Third Sector has yet to consult on the Regulations, therefore the 2009 date may slip into 2010.
- 2.3 Members were advised that as and when relevant provisions of the Act were made (called Commencement Orders), the Committee would be advised accordingly.

3. Report

- 3.1 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. This affects face to face fundraisers such as those with which this Committee has become familiar in recent years.

- 3.2 The Office of the Third Sector completed its consultation on draft guidance in respect of professional fund-raising and commercial participation in May 2008. The draft guidance appears to have been drawn up in close association with the Public Fundraising Regulatory Association (PFRA) the umbrella organisation for face to face fundraising companies. A copy of the Guidance is available for inspection, however it does not have an immediate bearing on this report.
- 3.3 In essence, face to face fundraisers now have to be upfront about how much remuneration they or their employer is receiving from the charity in question to sign people up to giving to that charity by direct debit.
- 3.4 Members may be interested to learn that a number of charities appear, from anecdotal evidence, to be moving away from using face to face fundraising companies and are now employing staff directly to undertake this work.
- 3.5 A side development of this is that instead of actually collecting the 'pledges' on the street, an initiative called 'I'm in' is being used (since mid 2007) whereby people's details, bar the bank details, are being solicited for contact by the charity later, thus sidestepping the need to be licensed at all.
- 3.6 The Fourth Commencement Order, also effective from 1 April 2008, is the most significant so far for the administration of Public Charitable Collections – Street Collections, House to House Collections and to a lesser extent, face to face fundraising.
- 3.7 The provisions commenced by the fourth order are 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 is relevant;
 - Provisions of the Charities Act 2006 that relate 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 will not come into force until 1 April 2009.
- 3.8 Members will recall that the charitable purposes as defined by the Charities Act 2006 were set out in the Appendix to the Committee report of September 2007 (the draft policy), but are reproduced here for reference:

"the advancement of education, religion, health or the saving of lives, citizenship or community development, the arts, culture, heritage or science, amateur sport, human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity, environmental protection or improvement, animal welfare, the relief of those in need by reason of youth, age, ill-health, disability, disadvantage, financial hardship or other disadvantage, any purposes recognised by virtue of section 1 of the recreational Charities Act 1958 (including for example local community centres and amateur sports clubs), any purposes that may be regarded as analogous to or within the spirit of any purposes which have been recognised under charity law."
- 3.9 A purpose can only be charitable if, in addition to falling within one of the prescribed categories, it is also for the 'public benefit' as defined by the Act. Members are asked to note that the 'test for public benefit' which charities will have to pass has not yet been finalised.

- 3.10 Members noted at the last meeting that appeals made for private gain would no longer be permitted.
- 3.11 Such appeals might include for example a collection to take a poorly child on holiday, to take more than one child would be acceptable as the collection would benefit more than one individual. A collection to finance a sponsored trek somewhere would not be permitted unless the proceeds of the collection were being applied to the charity rather than to help pay the expenses of the individual to do the sponsored trek.
- 3.12 Although these are the statutory definitions of charitable purposes, and the fourth commencement order brings them into force, the Government needs to finalise the process for an accessible appeals right through the new Charity Tribunal system, which is itself, yet to be established in consultation with the Charity Commission.
- 3.13 Officers have revised the application forms and criteria for Street Collections and House to House Collections accordingly, for which approval is sought, and produced a simple guidance sheet for both types of collection. All of these are attached at Appendix 'C'.
- 3.14 Number 11 of the Criteria is new and has been included in accordance with advice issued by the Cabinet Office that only holders of the Home Office Exemption Order are exempted from the need to apply for a House to House Collections Licence for any type of fundraising activity.
- 3.15 This said, guidance recently issued by the OTS (and attached at Appendix 'D') requires such third parties, and the exempted charity, to co-ordinate with other exempted charities and local authorities to avoid overlapping collections (collecting on the same days as each other in the same location).
- 3.16 In addition, the OTS makes it clear that commercial companies are not entitled to the Exemption. The charity in question may engage commercial collectors only if the promoter to whom the exemption order has been issued retains overall control and accountability and comply with regulations.
- 3.17 The charity is also required under section 14 (2) of the House to House Regulations 1947 to submit an annual account of the collections activity to the Cabinet Office.
- 3.18 The Cabinet Office has stated that in general they do not normally expect the amount of the proceeds of the collection applied to expenses to exceed 25%. This will include accounting for the cost of engaging commercial collectors in the annual account.
- 3.19 Currently, there is one such commercial clothing collection company operating on this basis in the borough and they and the exempted charity involved are fully aware of these provisions.
- 3.20 In practice, if a face to face fundraising company wishes to solicit pledges door to door for direct debit giving or a commercial clothing collection company is operating on behalf of a charity in this borough and that charity is not in possession of a Home Office Exemption Order, they must apply for a House to House Collections Licence.
- 3.21 The guidance sheet also provides a general overview of Public Charitable Collections which Members might find helpful.
4. Legal Implications
- 4.1 The Charities Act 2006 governs the way in which public charitable collections are administered and local authorities are permitted to continue with their own criteria and/or bylaws (where used) until such time as the Regulations come into force.
- 4.2 Until the Regulations appear the current Regulations governing Street and House to House Collections (1916, 1939 and 1974) remain in force and Officers have not deleted reference to these in the attached forms.

5. Equality Issues

- 5.1 Officers will endeavor to ensure that in policy and practice, and acting within the remit of the Charities Act 2006, no group is disadvantaged by the administration of the Act and that all applicants for a Street Collection permit or House to House Collection licence, and those operating without the need for a licence at this time, are treated equally, in accordance with the Equalities Impact Assessment presented to Members previously.

OFFICERS' RECOMMENDATION that –

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

(TO RESOLVE)

Background Papers

Information published on the Charity Commission's and Office of the Third Sector's websites and e-mail correspondence with the Office of the Third Sector held by Committee Section on file 64.12.11 (2)

9. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing items in private, it is the

OFFICERS' RECOMMENDATION that -

where appropriate the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the appropriate paragraphs of Part 1 of Schedule 12A of the Act.

(TO RESOLVE)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)