



# Regulatory Committee

**Tuesday 17 November 2009 7.30 pm**

**Council Chamber  
Civic Offices, Addlestone**

**This meeting takes place immediately after  
the Licensing Committee**

## Members of the Committee

Councillors D W Parr (Chairman), Mrs F J Barden (Vice-Chairman), R J Edis, Mrs M T Harnden and Mrs M Roberts.

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](http://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**

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### **PART II**

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

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(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 22 September 2009 which were included in the October 2009 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, September 2009, page 265, para 283)

1. Purpose of Report

1.1 **The purpose of this report is to inform the Committee of the latest financial projections for the 2009/10 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 2009/10 original estimates approved by this Committee in January. The statements have now been updated to include changes identified in the Financial Forecast considered by the Corporate Management Committee in October 2009.

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 are reported in the second section of each statement. These savings are 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.
- 3.5 Income from Taxi and Hackney Carriage fees is currently lower than expected and, based on the equivalent amount generated in the final five months of 2008/09, it is no longer anticipated that this income can be made up by the year end. Based on the current levels of income a provision for lower income of £3,000 has been included in the first section of this statement.

**(FOR INFORMATION)**

Background Papers

None stated.

7. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND VEHICLES – STANDARDS AND CONDITIONS (DTS)

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

1. Purpose of Report

1.1 **The purpose of this report is to consider the Driver and Vehicle Licensing Agency (DVLA) Medical Standards of Fitness to Drive in relation to Diabetes Mellitus and the current Best Practice Guidance on this subject published by the Department for Transport and The Secretary of State's Honorary Medical Advisory Panel in 2008, the relevant pages of which are attached at Appendix 'B'.**

1.2 **The Committee is asked to consider whether those applicants for the grant of a Hackney Carriage or Private Hire driver's licence, or those licensed drivers who have become insulin dependent diabetics, where they have good diabetic control and have no significant complications, should be treated as 'exceptional cases' and be permitted to hold a taxi driving licence.**

2. Background Information

2.1 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that Local Authorities ensure that Hackney Carriage and Private Hire drivers are fit and proper persons to be licensed. This responsibility includes ensuring that drivers are medically fit to carry out their role. The responsibility for determining the standards, including medical requirements, to be applied to taxi drivers is a matter for each licensing authority.

2.2 Group 2 is a high standard of fitness, and is required for lorry and coach drivers. These standards are higher than those for private motorists because professional vocational drivers spend substantially longer at the wheel so risk of sudden illness occurring is greater.

2.3 At the last meeting of this Committee in September 2009 it was resolved that Group 2 Medical Standards would continue to be adopted for all taxi drivers licensed by this authority. However, Officers agreed to report back following further research.

3. Report

Medical Requirements - Diabetes and the Group 2 Standard

3.1 Drivers who manage their Diabetes by either diet or medication in the form of tablets can generally satisfy the Group 2 Standard unless they develop relevant disabilities, in which case it is recommended that the licence should be refused or revoked.

3.2 Drivers who are already insulin dependent or become insulin dependent to control their Diabetes cannot qualify to the Group 2 standard. This has meant that this authority has refused to renew licences for existing drivers who are insulin dependent and has not licensed any new applicants who are insulin dependent.

- 3.3 Regulation changes in April 2001 allowed drivers in exceptional cases to apply for or retain their entitlement to drive class C1 vehicles (3500 – 7500KGs lorries) subject to certain qualifying conditions, including an annual medical examination.
- 3.4 To assist local authorities, the Department for Transport (DfT) published 'Best Practice Guidance' in October 2006, the relevant pages of which are attached at Appendix 'C'. This covers all aspects of Hackney Carriage and Private Hire Licensing. However, the guidance is not binding on Licensing Authorities.
- 3.5 The guidance confirms that the adoption of the Group 2 medical standards is best practice. However, the Secretary of State's Honorary Medical Advisory Panel on Diabetes Mellitus and Driving, suggests that best practice is to apply the C1 Standards to Hackney Carriage and Private Hire drivers with insulin treated Diabetes.
- 3.6 The criteria set out in (a) to (f) below is the same criteria used by the DVLA when assessing drivers for the C1 and C1E (C1E is C1 with a trailer attached) standard. The criteria for exceptional circumstances, is that 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.
- 3.7 The driver would be expected to pay for any expenses incurred to satisfy these criteria.
- 3.8 Currently there are several licensed drivers with Diabetes who control their condition by diet or tablets. In addition, one driver has insulin treated Diabetes, which is compliant with the C1 standard.

#### Other Licensing Authorities

- 3.9 Research into how other Licensing Authorities have addressed the issue of insulin treated Diabetes has been conducted via the National Association of Licensing Enforcement Officers (NALEO) and by gathering information available on other Councils' websites. The summarised results are attached at Appendix 'D'.
- 3.10 58 other Licensing Authorities responded to the survey. 96% use Group 2 medical standards as a requirement for licensed drivers. Whilst 76% do not adhere strictly to Group 2 requirements, 22%, in common with Runnymede, do.
- 3.11 61% of those who replied apply the C1 conditions to drivers who are insulin dependent diabetics, with a further 17% possibly applying a lesser requirement by dealing with each case on its own merits.

### Other Considerations

- 3.12 The DVLA has a separate category for passenger carrying vehicles with a capacity of between 9 and 16 passengers (mini buses), known as category 'D1'. Drivers of such vehicles are required to conform to the same Group 2 medical standards as larger Passenger Carrying Vehicles (PCVs) and Large Goods Vehicles (LGVs). Insulin treated diabetic drivers do not have the same benefits as drivers of similar sized C1 goods vehicles that are permitted to drive under 'exceptional circumstances.'
- 3.13 There is an anomaly then as the DfT guidance compares taxi and private hire driver standards with C1 goods vehicles rather than D1 mini buses.
- 3.14 Following public consultation, the DfT published draft guidance in July 2009 which includes the following statement:
- 'Given this recognition of the need for a higher standard of medical checks for taxi drivers than for other car drivers, the Department's view is that it is appropriate to use the Group 2 medical standards, which the DVLA apply to applicants for licences to drive buses and lorries, as a benchmark. The Department's advice is that the exceptional arrangements which apply to the C1 category are not appropriate for taxi/PHV drivers.'*
- 3.15 The relevant pages of the guidance are attached at Appendix 'E' and these clearly show that the guidance does not accord with current 'best practice' guidance.

### 4. Summary

- 4.1 Officers consider that until such time as further advice or guidance is published to the contrary, this Council should adopt best practice advice of the DfT in respect of existing drivers and applicants with insulin treated Diabetes, and use the DVLA's C1 criteria.

### 5. Council Policy

- 5.1 Current policy is controlled by conditions and regulations.

### 6. Legal Implications

- 6.1 Applicants who feel aggrieved by a decision to refuse them a Hackney Carriage or Private Hire driver's licence have the right for their case to be heard at the Magistrates Court by way of an appeal.

### 7. Human Rights Considerations

- 7.1 Although some current licensed drivers and/or potential applicants for a licence may be disadvantaged by an application being refused on medical grounds, such measures by the Council must be balanced against any risk to public safety should an application be granted.

### **THE COMMITTEE IS ASKED TO –**

#### **consider the issues raised in the report and whether:**

- i) 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 criteria contained within this report and can otherwise satisfy all the other licensing requirements set by legislation and Runnymede Borough Council, and to amend the Standard Conditions for Licensed Vehicles as necessary.**

**or**

- ii) to continue not to licence hackney carriage and private hire drivers who are insulin dependent diabetics.**

**(TO RESOLVE)**

Background Papers

Public Carriage Office Notice 02//06

8. EXCLUSION OF PRESS AND PUBLIC

**OFFICERS' RECOMMENDATION that –**

**the press and public be excluded from the meeting during discussion of the following report 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 paragraphs 1, 3 and 6 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) | <u>Exempt Information</u>                                             | paras      |
| 9. | COMMERCIAL AND CHARITABLE CLOTHING COLLECTIONS AND CHARITIES ACT 2006 | 1, 3 and 6 |

b) Confidential Information

(No reports to be considered under this heading)

