

Runnymede Borough Council

REGULATORY COMMITTEE

5 April 2017 at 4.15 pm

Members of the Committee present: Councillors Mrs J Gracey (Chairman), Mrs D V Clarke, R J Edis and Mrs M T Harnden.

Members of the Committee absent: D W Parr (Vice-Chairman)

Councillor P Sohi also attended.

647 FIRE PRECAUTIONS

The Committee noted the Fire Precautions.

648 MINUTES

The Minutes of the meeting of the Committee held on 12 January 2017 were confirmed and signed as a correct record.

649 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D W Parr.

650 FUNDRAISING REGULATOR – RESPONSE TO THE CONSULTATION ON CHANGES TO THE CODE OF FUNDRAISING PRACTICE

The Committee considered endorsement of the Council's response to a consultation from the Fundraising Regulator on proposed changes to the Code of Fundraising Practice.

The Fundraising Regulator had only existed for two years and assumed responsibility for self-regulation following the merger of the Institute of Fundraising and the Public Fundraising Regulatory Association. The Fundraising Regulator had no legal powers and saw itself as a co-operative collective of fundraising charities and third parties.

The Fundraising Code of Practice guided charities in good practice within the context of existing legislation. Most charities had signed up to the code which was last revised in 2016.

There had recently been two high profile cases of poor practice that highlighted a need to amend the Code of Fundraising Practice, and the details of the cases were noted.

In considering the proposed response, the attention of Members was drawn to two matters which had arisen subsequent to the production of the Agenda report. Firstly, the Committee of Advertising Practice had issued new guidance to clothing collection organisations about how information should be presented on charity bags to avoid misleading the public. This followed a ruling by the Advertising Standards Agency about one particular company.

The second matter concerned 'no cold calling' which was to advise that the stickers to deter doorstep trading could be obtained free via Surrey County Council Trading Standards and the Charity web pages on the RBC website had been updated to publicise this. A reference would be included in the response to ensure that the onus was put on Charities to ensure

their collectors and third party fundraisers adhered to 'no cold calling' and similarly worded stickers.

The Fundraising Regulator had invited responses to its consultation on eight areas of the Code, setting out the proposed changes and asking a series of questions. In addition they held a webinar on 1 March and Officers took part in this.

The eight parts being consulted on were:-

- A. Charity Trustees
- B. The fundraising ask
- C. Solicitation (disclosure) statements
- D. Raising Concerns about fundraising practice (whistleblowing)
- E. People in Vulnerable Circumstances
- F. Charity Collection bags
- G. Third Parties
- H. The Code – General questions

The Committee endorsed the draft responses shown in Appendix 'A' and gave authority for the final wording of the response to be agreed with the Chairman.

Officers would be submitting an updated draft Charity Collections Policy to the meeting of this Committee in June 2017, prior to a consultation exercise.

RESOLVED that -

the response set out in the bold sections in Appendix 'A' be approved and submitted to the Fundraising Regulator with minor alternations to be agreed in consultation with the Chairman of the Committee prior to the submission deadline.

651 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING – LEGISLATIVE AND PROCEDURAL AMENDMENTS

The Committee was informed of:

- 1) New legislation affecting the taxi licensing regime in respect of the protection of children, access for wheelchair users to Taxi and Private Hire vehicles, and right to work checks.
- 2) Procedural changes as a result of the expansion of online government services.

The introduction of new legislation had placed additional responsibilities on licensing authorities in respect of the protection of children, access for wheelchair users to Taxi and Private Hire vehicles and right to work checks.

The Policing and Crime Act 2017 (PCA2017) had introduced a new discretionary power for the Secretary of State to issue guidance to local authorities as to how they consider the protection of children from harm in the hackney carriage and private hire licensing process. No commencement date for these changes had been announced as yet.

The implementation of Sections 165 and 167 of the Equalities Act 2010 (EA2010) had introduced specific requirements for drivers who had a wheelchair adapted vehicle in respect of access for wheelchair users. A Commencement Order would bring these Sections into force on 6 April 2017.

The provisions of the Immigration Act 2016 (IA2016) prohibited licensing authorities from issuing a hackney carriage, private hire or operators' licence to anyone who was

disqualified by reason of their immigration status. Licensing authorities would be under a duty to carry out immigration checks.

With regard to procedural changes, the Council currently required all drivers to produce the following as a means of satisfying the fit and proper criteria. 1) An enhanced Disclosure and Barring Service (DBS) certificate. 2) Their driving licence record as held by the DVLA.

Prior to March 2017, these were carried out using a paper driven process. The expansion of Government online services now allowed the application for and checking of DBS and DVLA records online.

Runnymede's Hackney Carriage and Private Hire Licensing policy had been amended prior to its adoption so that it took these legislative and procedural changes into account. However, when the guidance in relation to the protection of children had been produced it would be assessed and amendments made to policy/procedures where necessary.

These legislative and procedural changes had led to an increase in Officer and administrative time for taxi licensing. In the short term this involved informing the trade and updating application forms and, in the longer term, the process of administering DBS applications and right to work checks.

The cost of amending forms and liaison with the trade was already included within the administrative charge related to taxi licensing, as was the cost of administrative processing, although this would be monitored to ensure it reflected the true cost of provision.

The extra work and safeguards involved, together with the extra measures which had now been put in place were noted.

In response to a question from a Member, it was confirmed that the new Licensing Policy had reaffirmed the obligations of drivers under the Equality Act 2010.

652 TIMING OF SCHEDULED REGULATORY COMMITTEE MEETINGS

Following the earlier decision of the Licensing Committee to change the timing of scheduled meetings of that Committee from 4pm to 7.30pm, it was considered appropriate to mirror the same change to the timing of scheduled meetings of the Regulatory Committee for the same reasons. Accordingly it was

RESOLVED that –

subject to the formal approval of Group Leaders, the scheduled meetings of Regulatory Committee be held at 7.30pm from the Municipal Year 2017/18.

(The meeting ended at 4.34pm)

Chairman

Questions

A1. Does the proposed additional wording of the Code (combined with the existing Code requirements) give sufficient clarity on how Charity Trustees are expected to oversee the fundraising activities of their charity?

Yes / No

If no, please explain how the wording could be improved.

A2. Are there any other comments you wish to make on the proposed additional wording of the Code on Charity Trustees?

No

B1. Is the existing focus on limiting the number of fundraising asks helpful in safeguarding the public from undue pressure?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

Placing a limit on the number of 'asks' should in theory be helpful. However, we feel that if someone says 'no' initially this should be enough to indicate that they do not wish to engage with the fund raiser. This would be similar to the rules regarding no importuning under the Street Collections Regulations

B2. For telephone calls, does a narrower focus on financial asks (as opposed to requests for other forms of support) put the right emphasis on where the risk of undue pressure lies?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

Making a distinction between financial and other types of 'ask' could be considered as providing an additional opportunity for a fundraiser to try and justify some degree of pressure on the potential donor by asking the same question in a different way or engaging in bartering over the amount of time and/or money that a donor might want to give to the charity. Confining the number to 3 for the financial ask in effect places no limit on the other type of asks. People may be more inclined to give their time, money etc if not persistently asked either by phone or mail or face to face.

B3. Does the proposed new wording of the two rules provide sufficient clarity on when a fundraising ask is or becomes inappropriate?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence

The second rule is sufficient by itself to clarify that 'no' means no

C1. Does the proposed new wording on solicitation statements address the following concerns:

a. that the person making the donation is clear before they give as to who is soliciting the donation?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

b. that, where applicable, it is made clear that the person seeking a donation is a professional fundraiser?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

D1. Do you agree that fundraising organisations should be required to have an internal procedure for members of staff and volunteers to raise concerns?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

D2. If yes, do you agree that this requirement needs to be contained in the Code?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

D3. Does the proposed new code rule provide a clear statement on what fundraising organisations must have in their whistle blowing policy?

Yes / no

If no, please explain why, giving your reasons with any supporting evidence.

E1. Does the existing wording of the Code adequately recognise the needs of people in vulnerable circumstances?

Yes / No

If no, please explain why.

E2. Does the existing Code and supplementary guidance give sufficient clarity to fundraisers on how they are expected to engage with people in vulnerable circumstances?

Yes / No

If no, please explain why, giving your reasons with any supporting evidence.

Although we agree that the current wording is clear, it cannot be working in practice given the level of complaints reported. There are clear expectations of fundraisers

and charity trustees are responsible for overseeing the conduct of the charity and ensuring good training and support is in place. However, we are concerned that trustees are not able to exercise the level of control needed and that the Fundraising Regulator does not have any legal powers to enforce.

F1. Does the addition of the proposed new rule adequately deal with the distribution of unwanted charity collection bags?

Yes / No

If no, please explain why giving your reasons with any supporting evidence.

We would suggest that the wording is expanded to include 'no unsolicited mail', 'no unlicensed collections' and 'no doorstep trading'. However, feedback received from our residents and Ward Councillors indicates that whatever sticker is used they are more often than not ignored by the fundraiser/commercial participator. There should be a greater onus placed on them to comply with the wishes of residents. The point has also been made that displaying these stickers makes some residents feel more vulnerable because they can attract attention to the fact that a vulnerable person might be living at that address.

i) “Reasonable efforts in monitoring compliance”

G1. Does the addition of the proposed guidance provide sufficient clarity on the meaning of “reasonable efforts” to ensure the ongoing compliance of third parties?

Yes / No

If no, please explain why giving your reasons with any supporting evidence

ii) “Fundraising agreements”

G2. Do you agree that further detail suggested needs to be included in the Code in order adequately to reflect the requirements of the Charities Act 2016 in respect of third party contracts?

Yes /no

If yes, does the additional detail proposed provide sufficient clarity on what is required of charities and third parties?

Yes /no

If no, please comment on how the wording could be made clearer.

We would like to hear your views on the following:

H1. How easy is the Code to understand? In

your answer, please consider:

a) the clarity of language used

- b) the layout / order of the Code
- c) how effective the Code is in highlighting existing legal requirements
- d) the accessibility of the Code for different audiences

The Code is a very detailed and comprehensive document and would probably benefit from having an index and summary at the beginning of each section to encourage adherence to the requirements and best practice guidance.

H2. In what areas, if any, do you feel the Code could generally be improved?

We feel that updated statutory regulation is needed to properly restore confidence in fundraising. The Charity Commission, Trading Standards and other enforcement bodies should be better resourced to protect legitimate charities and the public and enforce where fundraising practices are not working

H3. Are there any issues not covered either by the existing Code or this consultation that you think should be considered for inclusion in the Code or Guidance? (if yes, please explain why in your answer)

Not at this time.

H4. Are there any areas in the Code that you would like to see removed or amended which are not mentioned in this consultation and why? (if yes, please explain why in your answer)

In section 3.2.1 we would like to see an amendment to promote consistency with Safeguarding best practice over the definition of a child so that the consent of a parent or guardian is required in respect of information disclosure pertaining to a child under the age of 16. The threshold of 16 years of age is also used in the Street Collections Regulations.