**LICENSING COMMITTEE - WEDNESDAY 14 JUNE 2017**

**PART I – NOT DELEGATED**

**5. EFFECT OF IMMIGRATION ACT 2016 ON APPLICATIONS FOR PERSONAL AND PREMISES LICENCES UNDER THE LICENSING ACT 2003.**

1. **Summary**

1.1 To advise the Committee on changes to legislation governing the licensing process that has come into effect. An update was requested by the Licensing Committee following meeting on 8 March 2017 as guidance was not available at the time as it had not been produced by the Home Office.

2. **Details**

2.1 The provisions of the Immigration Act 2016 have amended two existing licensing regimes to prevent people without lawful immigration status and the right to work from working in the United Kingdom. It is already in effect in regard to the holding of a Private Hire Operator licence and a Private Hire or Hackney Carriage driver licence.

2.2 The second regime is that for the issue of personal and premises licences under the Licensing Act 2003. These changes took effect on 7 April 2017. It requires all applicants for a personal licence and all applicants for a new premises licence made in the name of an individual to provide checkable proof to the Licensing Authority that they have permission from the Home Office to live and work in the United Kingdom.

2.3 Licensing Authorities must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to reside in the UK and be employed in the UK. This process is less rigorous than the provisions for Taxi and Private Hire Drivers and Operators under the Immigration Act 2016 in that Licensing Authorities are not required to see original documentation. Photocopies or a scan of the documents are acceptable. This could be because it is often a solicitor or licensing agent who makes the application and that premise applications under the Licensing Act 2003 can also be made online and therefore these are not always made by the applicant in person.

2.4 The documents that are acceptable are the same as the documents checked for Hackney Carriage and Private Hire Drivers and Operators. The documents only need to be valid at the time of granting the licence as they automatically lapse if right to work ceases. If the applicant does not physically have these documents as they are with the Home Office then an immigration check is made with the Home Office directly. Once right to work is confirmed a licence can then be issued.

2.5 In addition to this, the Immigration Enforcement Service has become a Responsible Authority under the Licensing Act 2003 and Immigration Officers have been given powers of entry to licensed premises under the Licensing Act 2003. It also adds immigration offences and civil penalty notices to Schedule 4 of the Licensing Act 2003.

3. **Options/Reasons for Recommendation**

3.1 To note the effect of the Immigration Act 2016 on The Licensing Act 2003 and the changes in the application processes and powers available to a Licensing Authority.

4. **Policy/Budget Reference and Implications**

4.1 The recommendations in this report are within the Council’s agreed policy and budgets. Due to the changes in legislation, changes may be required to existing licensing policies and procedures.

5. **Financial Implications**

5.1 It is anticipated that any additional costs in terms of staff time and photocopying can be contained within current resources. However, there may be unbudgeted costs relating to legal fees for appeals. Any future variances will be reported through budget monitoring.

6. **Legal Implications**

6.1 There is a statutory requirement on Three Rivers District Council as the Licensing Authority to implement the provisions of the Immigration Act 2016.

7. **Equal Opportunities Implications**

7.1 ***Relevance Test***

|  |  |
| --- | --- |
| Has a relevance test been completed for Equality Impact?*The Authority must legally implement the provisions of the Act as a legal requirement*  | No |
| Did the relevance test conclude a full impact assessment was required? | No  |

7.2 ***Impact Assessment***

The Authority must legally implement the provisions of the Acts as a legal requirement.

8. **Staffing Implications**

8.1 The impact of the Immigration Act 2016 may lead to an increase to staffing implications. In essence the Immigration Act adds another rigorous level of check that the licensing service will need to carry out to determine an application. This may lead to an increase in workload in respect of personal licences and hearings.

9. **Environmental Implications**

9.1 None specific.

10. **Community Safety Implications**

10.1 None specific.

11. **Public Health implications**

11.1 None specific*.*

12. **Customer Services Centre Implications**

12.1 It is not anticipated that these changes to legislation will create any additional workload for the customer services centre.

13. **Communications and** **Website Implications**

13.1 Information in regard to the application process for both Personal and Premises licensing licences has been updated to take into account these changes.

14. **Risk Management and Health & Safety Implications**

14.1 None specific*.*

15. **Recommendation**

15.1 That the report on the effect of the Immigration Act 2016 on applications made and existing licences issued under the Licensing Act be noted.

 Report prepared by: Brad Wheeler, Licensing Officer

 **Data Quality**

Data sources:

 *None specific.*

 **Background Papers**

 Home Office Guidance For Licensing Authorities To Prevent Illegal Working In Licensed Premises In England And Wales.

 **APPENDICES**

Appendix A – Home Office Guidance For Licensing Authorities To Prevent Illegal Working In Licensed Premises In England And Wales.