**LICENSING COMMITTEE**

**WEDNESDAY 8 MARCH 2017**

**PART I – NOT DELEGATED**

**5. EFFECT OF IMMIGRATION ACT 2016 ON APPLICATIONS FOR PERSONAL AND PREMISES LICENCES UNDER THE LICENSING ACT 2003. ALSO THE INTRODUCTION OF THE POLICING AND CRIME ACT 2017 AND ITS IMPLICATIONS AND PROVIDE AN UPDATE ON RECENT SUB-COMMITTEE DECISIONS**

(DCES)

1. **Summary**

1.1 To advise the Committee on changes to legislation governing the licensing process which are about to come into effect. Also report upon recent licensing sub-committee issues.

2. **Details**

2.1 Members may be aware of the sub-committee hearing held in September 2016 at which a decision was reached to revoke the premises licence for High Elms Manor, Garston following serious disorder at the premises. The appeal was listed for hearing at St. Albans Magistrates Court in February 2017 before a District Judge. However prior to the hearing the appeal by High Elms was withdrawn and the sub-Committee decision stands.

2.2 The Policing and Crime Act 2017 received Royal Assent on 31st January 2017.The Act makes a number of changes to the Licensing Act 2003. In basic terms it widens the definition of alcohol to include such things as vapour and powder. It also makes changes around Interim steps pending a full review of a premises licence, and makes changes to the procedure on summary reviews and interim steps. It also changes the way in which Home Office Guidance on the Act comes into force and adds extra offences to Schedule 4 of the Act.

2.3 The more significant changes from an Officer and Member perspective is that Power is now given to a Licensing Authority to either suspend or revoke a Personal Licence issued as a consequence of the Licensing Act 2003. The suspension must be for a period not exceeding six months. The power is activated by the Licensing Authority becoming aware that a licence holder has a conviction for an offence as listed in Schedule 4 of the Act. It lays out the procedure to be undertaken and allows for representations from the licence holder to Members and a final appeal to Magistrates Court. Officers will need to develop a procedure and a hearing procedure on the matters for Members.

2.4 The provisions of the Immigration Act 2016 will amend 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. This has been achieved by amendments to the Local Government (Miscellaneous Provisions) Act 1976.

2.5 The second regime is that for the issue of personal and premises licences under the Licensing Act 2003.The Home Office have indicated that these changes will come into effect in early April 2017. When this comes into effect 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.

2.6 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. Officers will need to verify such documentation, copy it and retain a copy on file.

2.7 In addition to this The Immigration Enforcement Service will become a Responsible Authority under the Licensing Act 2003 and Immigration Officers will be given powers of entry to licensed premises. 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 report on the effects of the Policing and Crime Act 2017 and 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 be made to existing licensing policies and procedures.

5. **Financial Implications**

5.1 None specific.

5.2There will be an increased cost to processing applications. This will include items such as time to carry out these extra checks and photocopying costs. There is also the possibility of additional hearings by members to determine Personal licence suspensions/revocations. The effect on resource cannot be quantified at this stage.

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 when they come into effect. Also the provisions of The Policing and Crime Act 2017 which are in effect.

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. The Policing and Crime Act widens the licensing responsibilities which 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 will require updating.

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

14.1 None specific*.*

15. **Recommendation**

15.1 That the report on the effect of Immigration Act 2016 and The Policing and Crime Act 2017 on applications made and existing licences issued under the Licensing Act be noted.

15.2 That the Committee recommend to Council that the Council Constitution be amended to reflect the requirements of the Immigration Act 2016 and the Policing and Crime Act 2017.

 Report prepared by: Phil Andrews, Licensing Officer

 **Data Quality**

Data sources:

 *None specific.*

 **Background Papers**

Home Office Guidance for Licensing Authorities to prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales

 **APPENDICES**

Appendix A - Home Office Guidance for Licensing Authorities to prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales