



LICENSING AND GAMBLING COMMITTEE – 13TH JULY 2017

SUBJECT: IMPLEMENTATION OF IMMIGRATION ACT 2016 AND ASSOCIATED AMENDMENTS TO THE AUTHORITY'S STATEMENT OF LICENSING POLICY

REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 To advise members of the implementation of the Immigration Act 2016 and the legislative changes it introduces to the Licensing Act 2003 and to recommend associated amendments to the Statement of Licensing policy to Full Council.

2. SUMMARY

- 2.1 The Immigration Act 2016 amends the Licensing Act 2003 to introduce immigration safeguards in respect of particular licence types, which commenced on the 6 April 2017. Home Office Immigration Enforcement are also listed as being a responsible authority and given powers of entry to licensed premises. The Statement of Licensing Policy approved by Full Council on 17/11/15 requires amendment to accommodate these changes.

3. LINKS TO STRATEGY

- 3.1 The changes to the Licensing Act 2003 introduced by the Immigration Act 2016 contribute to the Healthier, Safer, and Prosperous themes of the Single Integrated Plan, Caerphilly Delivers.
- 3.2 The Immigration and Licensing Acts contribute to the Well-being Goals within the Well-being of Future Generations Act (Wales) 2015.
- *A prosperous Wales*
 - *A healthier Wales*
 - *A resilient Wales*
 - *A more equal Wales*
 - *A globally responsible Wales.*

4. THE REPORT

- 4.1 The Licensing Act 2003 is the primary legislation in respect of the sale and supply of alcohol, control of regulated entertainment and late night refreshment. Section 36 and Schedule 4 of the Immigration Act 2016 amends this act so as to introduce immigration safeguards.

4.2 The changes to the Licensing Act include the following:

- (i) Premises licences for the supply of alcohol and / or to provide late night refreshment cannot be issued to those individuals who do not have permission to be in the United Kingdom (UK) or are not entitled to undertake work relating to the carrying on of a licensable activity.
- (ii) Personal licences, such as are required by a designated premises supervisor for the authorisation of the sale of alcohol, cannot be issued to those individuals who do not have permission to be in the UK or are not entitled to undertake work relating to the carrying on of a licensable activity.
- (iii) Where a licence has been issued to a person with limited permission to be in the UK, the licence lapses when the person's permission comes to an end.
- (iv) The Home Secretary (In practice the Home Office Immigration Enforcement (HOIE)) has been added to the list of Responsible Authorities (RAs) who are consulted on Licensing Act applications. When Immigration Enforcement act as a responsible authority it will do so under the prevention of crime and disorder licensing objective and / or because it is considered appropriate for the prevention of illegal working in licensed premises. The Home Office will only receive applications for new premises licences, applications to transfer or vary, and interim authority notices. Personal licence applications will only be sent where the applicant declares an unspent conviction for an immigration offence, unspent conviction for a foreign offence that the Licensing Authority considers to be comparable to an immigration offence or has been required to pay an immigration penalty.
- (v) Immigration Officers are permitted to enter premises where they have reason to believe the premises are being used for the sale of alcohol and or late night refreshment, to investigate if immigration offences are being committed in connection with the licensing activity.
- (vi) The prescribed licence application forms have been amended to require relevant information regarding an individual's right to reside and work in the UK. An application submitted by a person who is disqualified by reason of their immigration status is invalid and will be rejected. Immigration checks will be conducted on all individuals, including where there is more than one individual and includes partnerships where there is joint and several liabilities. Checks are not required in respect of limited companies, limited liability partnerships or a statutory function.
- (vii) Immigration Enforcement may request a review of a premises licence when there are concerns relating to the licensing objective of preventing crime and disorder. The onus will also be on them to request a review of a licence when immigration permission comes to an end in relation to licences issued before the commencement of this Act.
- (viii) Premises or personal licence will cease to have effect when a right to work lapses.
- (ix) Immigration Enforcement has a right of entry to investigate licensable activities.

4.3 Members will be aware of this Councils Statement of Licensing Policy approved by Full Council on 17/11/15 which requires amendment to add Home Office Immigration Enforcement as a Responsible Authority and to list their contact address. This is a Council function. No further changes are required to the Licensing Policy.

5. WELL-BEING OF FUTURE GENERATIONS

5.1 The changes made to the Licensing Act 2003 by the Immigration Act 2016 contribute to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of

working as defined within the sustainable development principle of the Act. The Licensing policy is integrated in that it contributes to a number of the Well-being goals and supports the objectives of other stakeholders. The Policy promotes involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision making process

- 5.2 The Council has a mandatory obligation to administer the Licensing Act 2003 and to ensure compliance with relevant legislation, regulations and conditions. The prime focus for the Council is to ensure the promotion of the four licensing objectives.

6. EQUALITIES IMPLICATIONS

- 6.1 The Council ensures that it treats all individuals and organisations who are applying for or who hold licences and permits with equal respect both when corresponding with those individuals and organisations during any licensing process. The authority has a duty to comply with the legislative changes outlined in the report.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications associated with this report.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications associated with this report.

9. CONSULTATIONS

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

10. RECOMMENDATIONS

- 10.1 That Members note the changes to the Licensing Act 2003 as a consequence of the Immigration Act 2016.
- 10.2 That Members recommend to Council that the Licensing Policy be amended to incorporate the relevant changes as a result of the Immigration Act 2016 to add Home Office Immigration Enforcement as a Responsible Authority and to list their contact address.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To ensure Members are aware of the legislative changes arising from the implementation of the Immigration Act 2016 and that the Statement of Licensing policy is up to date with current legislation and guidance.

12. STATUTORY POWER

- 12.1 Immigration Act 2016, Licensing Act 2003. Approval of the Statement of Licensing Policy under the Licensing Act 2003 is a Council function.

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Consultees: Cllr, Denver Preece Chair, Licensing Committee
Cllr, Julian Simmonds Vice Chair, Licensing Committee
Cllr, Eluned Stenner, Cabinet Member for, Environment and Public Protection
Robert Hartshorn, Head of Public Protection
Gail Williams, Interim Head of Legal services and Monitoring Officer
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Mike Eedy, Finance Manager
Sue Ead, Solicitor, Legal Services
Anwen Rees, Senior Policy Officer (Equalities and Welsh Language)
Shaun Watkins, HR Manager

Background Papers:

Immigration Act 2016

Current Statement of Licensing Policy: <http://www.caerphilly.gov.uk/My-Council/Strategies,-plans-and-policies/Environmental-health/Statement-of-Licensing-Policy>