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To:

Councillors: Glyn Banks, David Cox, Peter Curtis, Alan Diskin, Ian Dunbar, Rosetta Dolphin, Brian Lloyd, Hilary McGuill, Brian Dunn, Mike Reece, Jim Falshaw and Tony Sharps

11 November 2016

Dear Councillor

You are invited to attend a meeting of the Licensing Committee which will be held at 10.00 am on Thursday, 17th November, 2016 in the Delyn Committee Room, County Hall, Mold CH7 6NA to consider the following items

A G E N D A

1 APPOINTMENT OF VICE-CHAIR

The Chair of Licensing Committee is appointed at County Council. Nominations are sought for a Vice-Chair of the Committee.

2 APOLOGIES

Purpose: To receive any apologies.

3 DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Purpose: To receive any Declarations and advise Members accordingly.

4 MINUTES (Pages 3 - 6)

Purpose: To confirm as a correct record the minutes of the last meeting

5 IMMIGRATION ACT 2016 (Pages 7 - 10)

To inform Members of the implications of the Immigration Act 2016 on Licensing

6 **TO CHANGE THE DELEGATION OF DECISIONS IN RELATION TO 'FIT AND PROPER PERSON' FOR THE SCRAP METAL DEALERS ACT 2013 AND THE MOBILE HOMES (WALES) ACT 2014** (Pages 11 - 14)

For information only. To inform Members of necessary changes to the delegation of decisions relating to the fitness and propriety of applicants to hold a licence under the Scrap Metal Dealers Act 2013 or the Mobile Homes (Wales) Act 2014

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert Robins', with a horizontal line extending to the right.

Robert Robins
Democratic Services Manager

LICENSING COMMITTEE **30th NOVEMBER 2015**

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Monday 30th November 2015.

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Glyn Banks, David Cox, Rosetta Dolphin, Ian Dunbar, Jim Falshaw, Brian Lloyd, Hilary McGuill, Mike Reece

SUBSTITUTE:

Councillor Sharon Williams for Glyn Banks

APOLOGIES:

Councillor Brian Dunn

IN ATTENDANCE:

Solicitor, Team Leader, Licensing and Team Manager - Committee Services

8. DECLARATIONS OF INTEREST

No declarations of interest were made.

9. MINUTES

The minutes of the meeting held on 13 May 2015 had been circulated with the agenda.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chair.

10. CHANGES TO DOG BREEDING LEGISLATION

The Team Manager, Licensing, explained that the Breeding of Dogs Act 1973 had been replaced within Wales by the (Breeding of Dogs) (Wales) Regulations 2014 which came into force on 30 April 2015. Any person wishing to breed dogs in Wales must obtain a licence from their local authority in compliance with the new regulations and relevant licence conditions which were outlined in the report.

The report had been submitted to Cabinet on 17 November 2015 where the following was agreed:

- Delegation of powers under the Animal Welfare (Breeding of Dogs) Regulations 2014 be given to the Community Protection Team Leader – Licensing, and to the licensing team
- Adoption of a suite of conditions approved by the All Wales Technical Panel for Animal Health and Welfare

- Delegation of further decisions in relation to conditions to the Chief Officer (Planning and Environment) with approval by the Cabinet Member for Public Protection, Leisure Services and Waste Strategy; and
- Delegation of the adoption of the fee level be given to the Chief Officer (Planning and Environment) with approval by the Cabinet Member for Public Protection, Leisure Services and Waste Strategy

The proposed licence fee would reflect appropriately any additional anticipated and actual costs and would enable the function to be fully cost neutral.

Councillor Cox asked if inspections of premises took place before a licence was issued. The Team Leader, Licensing, explained that this did take place and the first inspection of a premises was undertaken by the licensing team and a vet. The Team Leader also clarified that the applicant paid for the presence of the vet.

In responding to a question from Councillor Curtis, the Team Leader explained that the licence covered a 12 month period.

RESOLVED:

That the report be noted.

11. LICENSING ACT 2003 REVIEW OF STATEMENT OF LICENSING POLICY

The Team Leader, Licensing, introduced the report which was to review the Statement of Licensing Policy under the Licensing Act 2003, and to provide a copy of the Draft Policy for 2016 – 2020 for consideration prior to the commencement of consultation.

This was the fourth Statement of Licensing Policy to be issued and outlined the expectation of the Licensing Authority in relation to applicants. Details were also provided on what applicants and service users could expect from the Licensing Authority.

A thorough review of the current policy had been undertaken, taking into account a number of changes to the Act and the latest revised Guidance from the Home Office issued under section 182 of the Act. The draft Policy was shown as Appendix A to the report.

In response to a question from Councillor Dolphin, the Team Leader explained that the Policy was promoted through Community Safety, Trading Standards and the licensed trade. It would also be possible to promote it at the Flintshire Connects venues.

RESOLVED:

That the report be noted.

12. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or public present.

(The meeting commenced at 10.00 a.m. and ended at 10.20am)

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Chairman

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LICENSING COMMITTEE

Date of Meeting	Thursday, 17 November 2016
Report Subject	Immigration Act 2016
Report Author	Chief Officer (Planning and Environment)

EXECUTIVE SUMMARY

To inform Members of the implications the Immigration Act 2016 will have on Licensing.

RECOMMENDATIONS

1	To note the report.
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REPORT DETAILS

1.00	EXPLAINING THE IMMIGRATION ACT 2016
1.01	The Immigration Act 2016 has implemented a wide range of legislative measures to make it increasingly hard for illegal migrants to remain in the UK and to remove incentives for migrants to come to the UK illegally.
1.02	<p>The Act incorporates the following illegal working measures:</p> <ul style="list-style-type: none">• New offence of working illegally, allowing the seizure of earnings as the proceeds of crime• Strengthened offence of employing an illegal worker, making it easier to prosecute, and increasing the maximum sentence from 2 to 5 years• New illegal working closure notice and compliance order, applied against businesses that repeatedly flout the law by employing illegal workers• Introduces immigration checks as part of licensing regimes in high risk sectors of taxis and PHVs (also, alcohol and late night refreshment but these provisions have not taken effect as yet).
1.03	<p>Section 36 and Schedule 5 of the Act embed immigration safeguards into existing licensing regimes. This is being referred to as 'Right to a Licence' They:</p> <ul style="list-style-type: none">• Prohibit the issue of a driver or operator licence to someone who does not have the right to live and work in the UK.• Where someone has time-limited permission to work in the UK, less than the statutory period for a licence, the duration of the licence must not be any longer.• Immigration offences and penalties are added to the list of grounds on which licences can be suspended or revoked.• It is an offence not to return a licence where revoked on immigration grounds.
1.04	The Act identifies that the Private Hire and Taxi sector is at risk from illegal working, due to high levels of self-employment – meaning drivers are not subject to usual right to work checks as part of an employment relationship. Ensuring public safety is a priority.
1.05	A right to a licence in this context means that someone is not disqualified by their immigration status from holding a taxi or PHV operator's or driver's licence.
1.06	<p>Someone is disqualified, and must not be issued a licence, if they are:</p> <ul style="list-style-type: none">• Unlawfully present in the UK• Not permitted to work, or• Permitted to work, but not as a taxi/private hire driver or operator.
1.07	The Licensing Authority discharges its duty by undertaking an Immigration

	check.
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2.00	RESOURCE IMPLICATIONS
2.01	As of 1 st December 2016, all new applications or renewal applications for a Private Hire Operator or Joint Driver Licence will be subject to an immigration check.
2.02	These checks can be carried out in front of the applicant, by examining documentation such as a passport or biometric residents permit. A copy must be made of the document, and the date of the check must be recorded.
2.03	Licensing Officers and Administration Officers already see these documents which have to be provided upon application for a new or renewal licence to enable a Disclosure and Barring Service (DBS) criminal records check to be completed. This change in legislation will mean an additional check must be performed at that stage with very little impact on resources.
2.04	Should the Licensing Authority have concerns whilst undertaking the check, the Home Office's Evidence and Enquiry Unit will verify an applicant's immigration status to assist in determining whether the person is disqualified from holding a licence.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None required

4.00	RISK MANAGEMENT
4.01	Applicants may be refused a licence but there should be no risk, as they should be aware of their own immigration status.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Immigration Act 2016 http://www.legislation.gov.uk/id/uksi/2016/1037 Contact Officer: Gemma Potter Community Protection Team Leader - Licensing

	Telephone: 01352 703371 E-mail: gemma.potter@flintshire.gov.uk
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7.00	GLOSSARY OF TERMS
7.01	<p>Biometric Residents Permit: Biometric Residence Permits are replacing the old style vignettes in passports. They are in plastic card format similar to a driving licence.</p> <p>A BRP is issued if someone:</p> <ul style="list-style-type: none"> • applies to come to the UK for longer than 6 months • extends their visa to longer than 6 months • applies to settle in the UK • transfers their visa to a new passport <p>Disclosure and Barring Service: The organisation one would apply to for an enhanced criminal record disclosure</p> <p>Private Hire: A form of public transport often referred to as a taxi but vehicles must be booked through an office and cannot be hailed on the street.</p> <p>Hackney Carriage: A black cab style vehicle, with a meter, which can be hailed from the street and does not need to be pre booked.</p> <p>Private Hire Operator: The licence holder who is permitted to take bookings through an office or otherwise for private hire</p> <p>Joint Driver: A licence to drive both Private Hire and Hackney Carriage vehicles</p>



MEETING

Date of Meeting	Thursday, 17 November 2016
Report Subject	To change the delegation of decisions in relation to 'fit and proper person' for the Mobile Homes Wales Act 2013
Report Author	Chief Officer (Planning and Environment)

EXECUTIVE SUMMARY

To inform Members of necessary changes to delegated decisions in relation to determining licenses under the Mobile Homes Wales Act 2013.

RECOMMENDATIONS

1	To note the report.
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REPORT DETAILS

1.00	EXPLAINING THE CHANGES
1.01	The Mobile Homes Wales Act 2013 requires the Authority to be satisfied that the applicant is a fit and proper person before issuing a licence for a residential mobile home site. Procedures have been put in place to undertake these checks, including a basic criminal records disclosure.
1.02	The guidance document which was released for the Act was unclear, and it was decided that due to the Licensing Sub Committee already undertaking decisions on fit and proper persons in relation to Private Hire and Taxi Drivers, this would be the most appropriate forum.
1.03	On 21 st April 2015, a report went to Cabinet, which included the recommendation that any application for a site licence where the fitness and propriety of the applicant is questioned, is referred to and determined by a Licensing Sub Committee. Cabinet members agreed to this.
1.04	It has since come to our attention that as the Mobile Homes Wales Act 2013 was an executive function, delegation should not have been passed to Licensing Sub Committee as this is a committee of the Council. Cabinet should only have been asked to delegate to either a Sub-Committee of the Cabinet, a Cabinet Member or an individual officer.
1.05	As such, a report is being prepared to go before Cabinet in December, asking for the decision of the fitness and propriety of an applicant to be delegated to a Service Manager.
1.06	The Licensing Team are no longer involved with licensing Residential Mobile Home Sites. This is now solely an Environmental Health function.

2.00	RESOURCE IMPLICATIONS
2.01	None.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	None. No decisions have been made in relation to 'fit and proper person' under this legislation so far, therefore no decisions have been compromised.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Contact Officer: Gemma Potter Community Protection Team Leader -Licensing</p> <p>Telephone: 01352 703371</p> <p>E-mail: gemma.potter@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>Residential Mobile Home Site: A site housing mobile homes which are populated all year round as a permanent dwelling.</p> <p>Fit and Proper Person test: Checks the Authority undertake to ensure that an applicant is an appropriate person to hold a licence.</p> <p>Basic Criminal Records Disclosure: An official check showing any unspent convictions.</p>

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