

LICENSING COMMITTEE

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| 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

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| 1 | To note the report. |
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REPORT DETAILS

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| 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 |

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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. |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | None required |

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| 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. |

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| 5.00 | APPENDICES |
| 5.01 | None. |

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

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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> |