

LICENSING COMMITTEE
17th NOVEMBER 2016

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Thursday 17th November 2016.

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Glyn Banks, David Cox, Rosetta Dolphin, Ian Dunbar, Brian Dunn, Brian Lloyd and Hilary McGill

APOLOGIES:

Councillors: Jim Falshaw and Mike Reece

IN ATTENDANCE:

Solicitor, Public Protection Manager and Team Leader - Democratic Services

1. APPOINTMENT OF VICE-CHAIR

The Chair sought nominations for the role of Vice-Chair of the Committee for 2016/17. Councillor David Cox was nominated which was duly seconded.

RESOLVED:

That Councillor David Cox be appointed Vice-Chair of the Committee for 2016/17.

2. MINUTES

The minutes of the meeting held on 30th November 2015 had been circulated with the agenda.

Accuracy

Councillor Glyn Banks was not in attendance.

RESOLVED:

That subject to the above amendment, the minutes be approved as a correct record and signed by the Chair.

3. IMMIGRATION ACT 2016

The Public Protection Manager introduced the Immigration Act 2016 report which provided details of the implications of the Immigration Act 2016 and the effect it would have on Licensing.

The Act incorporated the following illegal working measures:

- New offence of working illegally, allowing the seizure of earnings as the proceeds of crime;

- Strengthened offence of employing any illegal working, 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 flouted the law by employing illegal workers; and
- Introduction of immigration checks as part of the licensing regimes in high risk sectors of taxis and PHVs (also alcohol and late night refreshment but those provisions had not yet taken effect)

Section 36 of Schedule 5 of the Act embedded immigration safeguards into existing licensing regimes which was referred to as 'Right to a Licence' and were:

- Prohibited the issue of a driver or operator licence to someone who did not have the right to live and work in the UK;
- Where someone had 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 were added to the list of grounds on which licences could be suspended or revoked; and
- It was an offence not to return a licence where revoked on immigration grounds

The Act identified that the Private Hire and Taxi sector was at risk from illegal working, due to the high levels of self-employment which meant drivers were not subject to usual right to work checks as part of an employment relationship.

From 1st December 2016 all new applications or renewal applications for a Private Hire Operator of Joint Driver Licence would be subject to an immigration check. Such checks were carried out in front of the applicant by examining documentation such as a passport or biometric residents permit.

Councillor McGuill asked how a member of the public would know if a driver had undergone such checks. The Public Protection Manager explained that this was a highly regulated service and members of the public could be assured by showing the required information on registration plates and also the display of the photographic ID badge within the taxi.

In response to a question from Councillor Dunbar, the Public Protection Manager explained that employees who were identified as being immigrants could face financial penalties, prosecution or ultimately deportation. The solicitor confirmed that there was a mechanism within the legislation to deal with both employers and employees in such cases.

On the provision of alcohol and late night refreshment, Councillor McGuill asked if establishments would be provided with details of the new legislation in their preferred language to which the Public Protection Manager confirmed that it would.

RESOLVED:

That the report be noted.

4. TO CHANGE THE DELEGATION OF DECISIONS IN RELATION TO 'FIT AND PROPER PERSON' FOR THE MOBILE HOMES WALES ACT 2013

The Public Protection Manager introduced the report on Changing the Delegation of Decisions in Relation to 'Fit and Proper Person' for the Mobile Homes Wales Act 2013. The report highlighted necessary changes to the delegated decisions.

Following the Cabinet decision on 21st April 2015, it had become apparent that the Mobile Homes Wales Act 2013 was an executive function and delegation should not have been passed to Licensing Sub Committee as that was a Committee of the Council. Cabinet should have been asked to delegate to either a Sub-Committee of the Cabinet, a Cabinet Member or an individual officer. A report was being prepared for Cabinet in December seeking that a decision of the fitness and propriety of an applicant be delegated to a Service Manager which Members supported.

RESOLVED:

That the report be noted.

5. 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 10.40am)

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Chairman