

LICENSING COMMITTEE
30 January 2020



Report sponsor: Richard Antcliff, Service Director, Public Protection and Streetpride

ITEM 10

Report author: Michael Kay, Head of Environmental Protection, Licensing, Housing Standards and Emergency Planning

Immigration Update

Purpose

- 1.1 The Immigration Act 2016 brought about a number of changes to licensing regimes that sought to prevent illegal working, which were introduced by the Council.
- 1.2 There has been a rise in the number of cases whereby it has not been possible to ascertain an individual's status at the point the individual's licence ends, where the individual has made an in-time application. Typically, this arises because the Home Office is yet to make a final decision about the licence holder's residence status. In those situations, further advice and/or guidance has had to be sought from the Home Office.
- 1.3 The Home Office has since clarified the process by way of updated guidance to licensing authorities and set out a process for the issue of time-limited licences to be issued in such circumstances.
- 1.4 Members will be aware that when the Deregulation Act came into force, it introduced the principle of 3-year drivers licences as a default position, subject to licensing authorities prescribing a list of exemptions for those situations where licences may be issued for a period less than 3-years. The revised Home Office guidelines therefore require an addition to that list.

Recommendation(s)

- 2.1 To agree an addition to the list of exemptions from 3-year licences.
- 2.2 To authorise the Director of Public Protection & Streetpride to make changes to the list of exemptions sufficient to give effect to the revised Home Office guidance.

Reason(s)

- 3.1 To provide assurance to the Licensing Committee that the Licensing Team are discharging their duties with regard to the Immigration Act 2016.

Supporting information

- 4.1 In December 2016, Committee noted a report that set out changes to licensing regimes brought about following the introduction of the Immigration Act 2016. This sought to prevent illegal working in the private hire and taxi sector. Since then, these provisions have been extended to those individuals that hold a personal licence required under the alcohol licensing regime.
- 4.2 The Act prohibits local authorities from issuing licences to anyone who is disqualified by reason of their immigration status. This relates to persons who are not legally allowed to be in the country or who are not permitted to work or who are permitted to work but are subject to a condition that prohibits them from holding such a licence.
- 4.3 Licensing authorities must discharge their duties by requiring the applicant to submit documentation that confirms they are entitled to a licence.
- 4.4 Checks must be carried out at the initial application, at renewal or at application, as applicable, to extend a licence.
- 4.5 For those individuals who have limited right to remain in the United Kingdom, the Licensing Team will have to repeat the checks at each subsequent application. If permission is time limited, any licence issued must not exceed the applicant's time limited period.
- 4.6 The Licensing Team have introduced a three step check to ensure compliance, as follows:
 - obtain the original documents;
 - check the validity of the documents; and
 - copy and retain the documents prior to issuing or renewing the licence
- 4.7 In most cases, officers have been able to make an assessment that the person is not disqualified from holding a licence by making a visual check of the document(s) against the person presenting them.
- 4.8 However, there has been a rise in the number of cases whereby it has not been possible to make this assessment because an individual's residency permit or indefinite leave to remain has expired. In these circumstances, further advice has been and will continue to be sought from the Home Office who will confirm the individual's immigration status.
- 4.9 Dependent on the information received from the Home Office, any licences issued as a consequence of this checking process must be limited to a maximum period of six months.
- 4.10 Upon any subsequent application to renew the licence, the Council must carry out a further document check before issuing the licence. The Council is prohibited by statute from issuing a licence if a person is disqualified by their immigration status.

Public/stakeholder engagement

5.1 Not applicable.

Other options

6.1 The checks are part of a statutory requirement and so no other options are applicable.

Financial and value for money issues

7.1 None.

Legal implications

8.1 As set out in the report.

Other significant implications

9.1 None.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Olu Idowu	21/01/20
Finance	-	

Service Director(s)	n/a	
Report sponsor	Richard Antcliff	21/01/20
Other(s)	-	