

**TITLE OF REPORT:** Case Law and Legislation Update  
**REPORT OF:** Mike Barker, Acting Chief Executive

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### **Purpose of the Report**

1. To inform the Committee of recent cases and amendments to legislation affecting the Licensing and Gambling Acts.

### **Legislation**

2. There are a number of amendments to the Licensing Act 2003 that are expected to come into force in coming months –
  - a. The introduction of light touch control for the sale of alcohol at community events and sales that are ancillary to other business activities, by introducing a new Part 5A to the Act
  - b. That a licence will automatically lapse if the holder is no longer entitled to work in the United Kingdom
  - c. The ability for the Secretary of State to object to certain applications where he/she is satisfied that if granted it would be prejudicial to the prevention of illegal working in licensed premises
  - d. That Licensing Authorities will have the power to suspend or revoke personal licences
  - e. To add further offences to the list of relevant offences that should be taken into account in respect of an applicant for a personal licence, and once a licence has been granted
  - f. To place cumulative impact policies on a statutory footing
  - g. To increase the flexibility of late night levies

3. There are currently no amendments scheduled to the Gambling Act 2005; however the DCMS has indicated that it will be considering the current allowances for fixed odds betting terminals with a view to establishing stricter control.

### **Case law**

4. In the case of *East Lindsey District Council -v- Abu Hanif (t/a Zara's Restaurant)* the High Court upheld the Licensing Committee's decision to revoke a premises licence where the licensee had employed an illegal worker. The significance of the case is that it reaffirms the principle that it is not necessary for a crime to have been reported, prosecuted or established in a court of law in order for the crime prevention objective to be engaged.
5. Finally, the Scottish law case of *Scotch Whisky Association and others v Lord Advocate and Advocate General for Scotland* was determined by the First Division appeal court on 21 October 2016, and established that minimum unit pricing for alcohol can be a proportionate measure under European law as opposed to taxation, because shops such as supermarkets may try to absorb increases in tax by off-setting them against the price of other products which would mean that cheap alcohol would still be readily available. It is likely that given the significance of the decision it will be further appealed; however it does support the approach adopted by Gateshead Council in imposing minimum unit pricing requirements in appropriate circumstances.

### **Recommendations**

The Committee Members are asked to note the content of this Report.