

1. **REPORT TITLE** **Relaxation of Late Night Refreshment Licensing**
- Submitted by:** **(Democratic Services Manager)**
- Portfolio:** **(Safer Communities)**
- Ward(s) affected:** **(All)**

Purpose of the Report

To update Members on the new rules relating to Late Night refreshment.

Recommendations

For the Committee to Consider whether to pursue a policy that:

- a) Exempts certain categories of premise from requiring a licence for hot food or drink after 23.00
- b) Designates areas where premises do not need a Premise Licence to sell hot food or drink after 23.00
- c) Stipulate that during periods between 23.00 and 05.00, premises may trade freely for the provision of hot food and drink without the need for a licence.

Reasons

Section 71 of the Deregulation Act 2015 has now come into effect.

1. **Background**

a) Schedule 2 to the 2003 Act provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of 'hot food and hot drink' between the hours of 11pm and 5am. Under Schedule 2, food or drink is considered to be 'hot' if, before it is supplied, it has been heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and at the time of supply it is above that temperature; or after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

b) Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with antisocial behaviour or disorder associated with the night time economy. As well as freeing up the businesses in question from unnecessary costs, this can also provide greater flexibility for licensing authorities to target their resources more effectively.

c) Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.

- d)** When choosing to designate particular categories of premises as exempt, a licensing can only exempt types of premises set out in the regulations. These are:
- Motorway service areas;
 - petrol stations;
 - local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - hospitals (except domestic premises);
 - community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
 - licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.
- e)** When choosing to designate a particular area as exempt, the relevant licensing authority must define the location, which can be of any size.
- f)** When choosing to exempt the provision of late night refreshment at particular times, the relevant licensing authority must determine the times between 11pm and 5am when the exemption applies. The exemption and any subsequent change to the time will apply to the whole licensing authority area.

2. **Issues**

The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business. For example, some late-night cafés serving hot drinks after 11pm may be located nowhere near pubs and nightclubs or areas associated with alcohol-related crime and disorder.

A relevant licensing authority may use more than one type of exemption at the same time, for example by changing the times across the licensing authority area during which licensing requirements will apply and also exempting premises by type across the whole licensing authority area. However, it cannot use different forms of exemption in conjunction with one another – for example, it would not be permitted to change the times in one geographic area only.

When applying any of the exemptions the relevant licensing authority must publicise the changes and should decide on the most appropriate way to do this, in addition to updating its statement of licensing policy as soon as is practical. There is no requirement for licensing authorities to tell premises individually, however they should publicise the exemption in a way that ensures that those who are likely to be affected may benefit from it. If any fees are paid prior to an exemption coming into effect, licensing authorities should consider whether a refund or partial refund is appropriate. It is for each individual licensing authority to develop its own

refund policy and ensure that it is communicated appropriately to all licence holders that are likely to be affected by an exemption.

3. **Options Considered**

The new powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- a) On or from premises which are wholly situated in a designated area;
- b) On or from premises which are of a designated description; or
- c) During a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).

4. **Proposal**

- That the Committee consider whether to pursue and explore the possibility of a policy in relation to the above options

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- *creating a cleaner, safer and sustainable Borough*
- *creating a Borough of opportunity*
- *creating a healthy and active community*
- *transforming our Council to achieve excellence*

6. **Legal and Statutory Implications**

None at present.

7. **List of Appendices**

Guidance of the Licensing of Late Nigh Refreshment.