

DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC HEALTH

REPORT TO: LICENSING COMMITTEE 4 FEBRUARY 2016

TITLE : DEREGULATION ACT 2015 – LATE NIGHT REFRESHMENT

1. PURPOSE

1.1 To inform members of the Licensing Committee about provisions in the Deregulation Act 2015 relating to the licensing of late night refreshment.

1.2 To seek the views of the committee about whether the Licensing authority should make use of the relaxations available.

2. RECOMMENDATIONS

Options available are:

2.1 That the content of the report be noted and the status quo remain with no deregulation of late night refreshment licensing within Blackburn with Darwen.

2.2 That Licensing Officers be directed to carry out further work relating to potential options to move towards deregulation of late night refreshment licensing within Blackburn with Darwen and report back to committee.

3. KEY ISSUES

3.1 The Deregulation Act 2015 made amendments to the Licensing Act 2003 to give licensing authorities powers to opt to exempt suppliers of late night refreshment from the need to have a licence.

3.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am. The most likely types of premises to need a licence are night cafes, takeaway food businesses and mobile takeaway vans.

3.3 Home Office Guidance issued regarding the new provisions states:
“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 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”.

3.4 The new powers allow licensing authorities to exempt the supply of late night refreshment from the need to have a licence if it takes place:

- a). on or from premises in a designated area
- b). on or from premises which are of a designated type
- c). during a designated time period (between 11pm and 5am).

Any of the above 3 options for relaxation can be used.

3.5 A designated area could be an area where there is no disorder associated with late night refreshment premises. The licensing authority would have to clearly define the area.

3.6 If choosing to exempt a particular category of premises only the types set out in regulations can be included. The list includes service stations and petrol stations; where fewer than 500 people are present in local authority premises, schools or community premises such as churches, community halls etc; and hospitals.

3.7 If choosing to exempt certain times the licensing authority must determine the times which must start after 11pm and end before 5am. The time exemption would apply across the whole of the local authority area.

3.8 In Blackburn with Darwen there are 55 hot food takeaways and cafes which hold a premises licence issued under the Licensing Act 2003 just for the provision of late night refreshment.

3.9 Licensing authorities are not compelled to make use of the exemptions but should consider deregulation where appropriate. In making use of any of the exemptions the licensing authority must first consider the risks to the promotion of the licensing objectives.

3.10 The current Statement of Licensing Policy was published in 2015. If it is decided to make use of an exemption the Statement of Licensing Policy would need to be amended. The usual, full consultation exercise would be undertaken before the amendment could be made.

3.11 Any exemption can be reviewed at any time to change the times, locations or premises type. However, unlike many other licensing decisions the late night exemptions are not made on a case by case basis and there is no recourse to bring an individual premises back into the licensing regime should they be the cause of any problem.

3.12 The Home Office guidance on the licensing of late night refreshment is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464869/Guidance_on_the_licensing_of_late_night_refreshment.pdf

3.13 Contact has been made with Lancashire Constabulary who have stated that they would not support any move to make exemptions for late night refreshment licences.

4. RATIONALE

4.1 The option for de-regulation has been made available to be helpful to businesses where there are no problems with anti-social behaviour or disorder associated with the night time economy. It also frees the business from the cost of applying for a licence and the annual licence fee.

5. POLICY IMPLICATIONS

5.1 Exemptions would form a change of Council policy which must be written into the Council's Statement of Licensing Policy issued under the Licensing Act 2003.

6. FINANCIAL IMPLICATIONS

6.1 Exempting premises from the need to hold a premises licence will result in a reduction in the fees payable by businesses to the Council.

7. LEGAL IMPLICATIONS

None.

8. RESOURCE IMPLICATIONS

None.

9. CONSULTATIONS

Lancashire Constabulary have been consulted for their opinion on the availability of deregulation.

10 . CONTACT OFFICER

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