

Licensing Act 2003 Committee	Agenda Item:
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Meeting Date	3 rd December 2015
Report Title	Deregulation of Late Night Refreshments
Portfolio Holder	Cllr Ken Pugh
SMT Lead	Mark Radford
Head of Service	
Lead Officer	Angela Seaward
Key Decision	No
Classification	Open
Forward Plan	Reference number: N/A

Recommendations	1. To note the change in legislation and that at present there is no evidence to suggest that a geographical area be designated.
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1 Purpose of Report and Executive Summary

- 1.1 The Deregulation of Late Night Refreshments under the Licensing Act 2003 (the Act) was passed on 1st October 2015 and came into force for local authorities to apply on 5th November 2015. The report sets out the implication of this for Swale Borough Council as the Licensing Authority.

2 Background

- 2.1 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. 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.
- 2.2 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. Licensing authorities now have 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 it is thought 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.

3.2 When choosing to designate particular categories of premises as exempt, a licensing authority 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.

3.3 The 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.

3.4 Existing late night refreshment licences for premises that become exempt from regulation will remain extant unless the holder chooses to surrender it to the licensing authority, but there will be no requirement on the licence holder to pay annual renewal fees and any conditions on the licence will cease to apply for as long as the exemption is in place. In cases where an exemption in relation to late night refreshment provision is applied, other licensing is unaffected.

3 Proposal/Key features of the Act

- 3.1 The deregulation process relates to the designation of a 'geographical area' where there is no evidence of significant crime and disorder issues. In discussion with the Police it appears that at the present moment there is no evidence to support the deregulation of premises based on crime and disorder considerations.

The proposal at this stage is to merely note the change in the legislation and to keep the situation under review with the Police.

4 Alternative Options

- 4.1 None. This has been designated a Statutory Function of the Local Authority

5 Implications

Issue	Implications
Corporate Plan	<p>A borough to be proud of: the statement seeks to strike the right balance between promoting and encouraging live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally but not to cause a disturbance.</p> <p>A community to be proud of: by promoting the four licensing objectives in this way the authority is enriching and enhancing the community whilst maintaining its regulatory and enforcement role.</p> <p>A council to be proud of: the statement will support good decision making processes</p>
Financial, Resource and Property	There will be a financial loss in the order of £4425.00 to the authority from annual fees and applications if premises were deregulated.
Legal and Statutory	The Licensing Authority must adopt a statutory function of the Licensing Act 2003
Crime and Disorder	The deregulation could have an impact on crime and disorder as the authority could no longer control or regulate late night functions on certain premises
Risk Management and Health and Safety	None.
Equality and Diversity	A fair approach will be delivered when looking at any geographic areas to deregulate

Sustainability	None.
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