

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee **DATE:** 23<sup>rd</sup> March 2016

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**WARD(S):** All

### **PART I** **FOR COMMENT AND DECISION**

#### **DEREGULATION ACT 2015 – GUIDANCE ON THE LICENSING OF LATE NIGHT REFRESHMENT**

1. **Purpose of Report**

To advise members of the response from Thames Valley Police on the amendments to Schedule 2 of the Licensing Act 2003 by Section 71 of the Deregulation Act 2015, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide Late Night Refreshment.

2. **Recommendation**

The Committee is requested to note the response from Thames Valley Police and resolve if at this stage any exemptions are to be made to the provisions of Late Night Refreshment.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The report outlines that Slough Borough Council as the Licensing Authority for the Licensing Act 2003 determines all applications for relevant Licensable Activities including Late Night Refreshment. The Deregulation Act 2015 has amended the 2003 Act, giving Local Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide Late Night Refreshment.

3a. **Slough Joint Wellbeing Strategy Priorities –**

The Home Office published Guidance on the licensing of Late Night Refreshment which is intended to assist Licensing Authorities and the Police with monitoring and enforcement activities in relation to the provision of Late Night Refreshment. The Guidance may also help businesses who wish to provide hot food and drink to determine whether they will require a licence under the 2003 Act.

As the amendments to the 2003 Act give Licensing Authorities powers to

exempt premises, in certain circumstances from the requirement to have a licence for late night refreshment, this will contribute to the following wellbeing themes.

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Should at any stage exemptions be implemented this may promote the benefits of living and working in Slough and may contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The amendments by the Deregulation Act 2015 give Licensing Authorities powers if they wish, to provide exemptions from the need for a Premises Licence in certain circumstances and may contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There are no financial implications involved in the recommendation.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	None	It is a matter for the Licensing Authority to decide if they wish to put in place exemptions or not. Liaison with the Police will assist in the decision making.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(c) Equalities Impact Assessment

An EIA has not been completed at this stage. However an EIA will be

undertaken should the Licensing Authority decide to make any exemptions at any stage.

## 5. Supporting Information

- 5.1 On 17<sup>th</sup> November 2015 a report was put before the Licensing Committee of the Deregulation Act 2015 amending Schedule 2 of the Licensing Act 2003, giving Licensing Authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 5.2 The provisions of the Deregulation Act 2015 came into effect on 1<sup>st</sup> October 2015 and took effect on 5<sup>th</sup> November 2015, and in summary as outlined previously, the amendments of Schedule 2 of the 2003 Act, now provide that licensing authorities can:
- (i) designate a **particular description of premises (as set out in the regulations)** as not requiring permission to sell hot food and drink after 23.00hrs,
  - (ii) **designate areas** where premises do not need a premises Licence to sell **hot food or drink** after 23.00hrs, and,
  - (iii) stipulate that **during periods between no earlier than 23.00hrs and no later than 05.00hrs**, premises may trade freely for the provision of hot food and drink without the need for a licence.
- Note: This does not apply to cold food or cold drink. It does include food supplied by members clubs, hotels, caravan sites, staff canteens, persons carrying out particular professions are also exempt.
- 5.3 The Licensing Manager liaised with Thames Valley Police on their view of the new provisions. Thames Valley Police responded that *"In general terms we wouldn't be supportive of exemptions, but it does rather depend upon the specific nature of any proposals. Any exemptions that can be potentially taken advantage of by less honest traders are to be avoided"*.
- 5.4 The Home Office 'Guidance on the licensing of late night refreshment' is attached at **Appendix A** and The Licensing Act 2003 (Late Night Refreshment) Regulations 2015 that sets out the types of premises that a Licensing Authority may exempt from the licensing for late night refreshment at attached at **Appendix B**.
- 5.5 Points to note: supplies of hot drink (but not hot food) from a vending machine which can be operated by the public without assistance from staff is exempt as it is not deemed a licensable activity. Drink which is either heated before it is sold (whether in the premises or elsewhere) or if it is heated on the premises directly after the time of supply. Hot means above ambient air temperature. Hot food is not exempt

## 6. Comments of Other Committees

A Information Report was put before the Licensing Committee on 17<sup>th</sup> November 2015 who resolved *'That the report be noted'*.

## **7. Conclusion**

The Committee is requested to note the response from Thames Valley Police and to resolve if at this stage any exemptions are to be made to the provisions of Late Night Refreshment. The Committee should have regard to Point 3.9 of the Home Office guidance that states – ‘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 deregulating where appropriate’.

## **8. Appendices Attached**

‘A’ - Home Office – Guidance on the licensing of late night refreshment.

‘B’ - The Licensing Act 2003 (Late Night Refreshment) Regulations 2015

## **9. Background Papers**

Schedule 2 of the Licensing Act 2003

Section 71 of the Deregulation Act 2015