
CHANGES TO LICENSING HOURS DURING ALL FUTURE NEW YEARS' EVES

1 SUMMARY

- 1.1 The Department for Culture, Media and Sport has published a consultation document entitled "Changes to Licensing Hours during all future New Years' Eves". This report seeks a response to the Consultation Document.

2 INTRODUCTION

- 2.1 Liquor licensing and public entertainment licensing are both statutory functions; the former administered by the Licensing Justices and the latter by the Council.
- 2.2 Minute 357/99 records a Member decision concerning a report to the Community Services Committee on 16 September 1999 on "Liquor Licensing and Public Entertainment Licensing Hours." This is outlined in more detail in paragraph 5.1.

3 SUMMARY OF THE PROPOSALS

- 3.1 The Government is seeking views on whether to:
- allow licensing hours for on-licensed premises (for example, pubs nightclubs, restaurants, bars, licensed hotels, etc.) and registered members' clubs (for example, working men's clubs, the Royal British Legion, political clubs, etc.), but not off-licences, to be relaxed all night from the normal end of permitted hours on all future New Years' Eves;
 - provide for all existing public entertainment licences, include those granted for that day only, to be extended automatically in line with the relaxed hours permitting sales of alcohol on all future New Years' Eves;
 - provide for all applications for restriction orders to be made to licensing justices whether or not formal licensing sessions are being held, and the principle of restriction orders and appeals against restriction orders;
 - provide protection for any employee unwilling to work in on-licensed premises or a registered members' club between the hours of 6.00am and 12 noon when New Year's Day falls on a Sunday; and whether there are other similar implications for any non-Christian faiths when New Year's day falls on any other day. Although the Government believes that it would be possible to justify arrangements which might indirectly advantage Christian workers, it favours no special provisions relating to Sundays

3.2 The changes are needed to:

- relieve from the licensed trade and non-profit making registered members' clubs the burden of applying to the courts for permission to open later on New Years' Eves;
- ensure that adequate public protection is maintained.
- relieve local authorities of the burden of varying individual public entertainment licences in line with the proposed changes to alcohol licensing law; and they may also be needed to:
- preserve the freedom of workers in the licensed trade not to be required to work on a Sunday morning.

3.3 The proposals will affect:

- All premises in England and Wales licensed to sell alcohol for consumption on those premises, and non-profit making registered members' clubs;
- Justices who normally grant extensions of licensing hours;
- The police who are required to enforce licensing laws and prevent disorder;
- Local authorities who consider variations of public entertainment licences when alcohol licensing laws are changed;
- Local residents who may be disturbed by noise from licensed premises and nuisance caused by;
- Consumers and members of non-profit making registered members' clubs who frequent licensed premises and clubs on New Years' Eves;
- Workers who are employed in licensed premises and non-profit making registered members' clubs.

3.4 If given effect, the Government estimates that the hospitality and leisure industry and non-profit making registered members' clubs would save £9.2 million each year, or £9.5 million each year if public entertainment licences are automatically extended.

3.5 The Government intends that the proposed changes to legislation should be made through a Regulatory Reform Order under the Regulatory Reform Act 2001. Subject to the outcome of consultation, the Government proposes that the changes are implemented from 31 December 2002.

- 3.6 A Regulatory Reform Order may not remove any necessary protection from individuals or organisations and may not prevent them from exercising existing rights or freedoms that they might reasonably expect to continue to exercise. When an Order imposes a burden, it must be desirable. It must also strike a fair balance between the public interest and the interest of those who are affected by the burden being created, and the burden must be proportionate to the expected benefit.

4 CURRENT SITUATION

- 4.1 Normal licensing hours for pubs and registered members' clubs in England and Wales run from 11am to 11pm on weekdays, and from 12 noon to 10.30pm on Sundays. On special occasions, extensions can be granted by magistrates on an application for a "special order of exemption". If approved, these orders extend licensing hours for any period considered appropriate by magistrates. New Year's Eve is recognised as a time for special celebration and extensions are routinely granted. The Government proposes to use a Regulatory Reform Order to make this extension of hours at New Year automatic and thus remove the need for licensees and registered members' clubs to apply for special orders of exemption every year.
- 4.2 The Government first proposed that licensing hours be relaxed for all future New Years' Eve in 1998. In 1999, this proposal was approved by the House of Commons Select Committee on Deregulation. However, the House of Lords Committee on Delegated Power and Deregulation argued for a more cautious approach and recommended that Millennium Eve should be treated as a one off trial of automatically relaxed hours on such occasions. Accordingly, the Licensing Act 1964 was amended to permit a national relaxation of licensing hours in England and Wales during the Millennium period. On-licensed premises were allowed to remain open for 12 hours after the end of normal permitted hours on 31 December 1999. This allowed pubs and clubs, that wished to do so, to remain open until 11am on 1 January 2000 and therefore, allowed a continuous period of opening for up to 36 hours. A system of restriction orders allowed the police, local authorities, and local residents to apply for limitations to be placed on the opening hours of certain premises, which might have otherwise given rise to disturbance, annoyance or disorderly behaviour.
- 4.3 Although the impact of extended hours at the Millennium was judged to be beneficial, the police service were concerned that Millennium Eve had been atypical and argued for a further trial period of relaxed hours during a normal New Year's Eve would be prudent. Accordingly, the Government replicated the Millennium arrangements allowing on-licensed premises and registered members' clubs, that wished to do so, to open for a continuous period of 36 hours between 31 December 2001 and New Year's Day 2002, and again provided for system of restriction orders.

5 PUBLIC ENTERTAINMENT LICENSING

- 5.1 The Orders that relaxed licensing hours for both Millennium Eve and New Year's Eve 2001 did not extend existing public entertainment licences in line with the relaxation of hours during which alcohol may be sold. Consequently, Members resolved on 16 September 1999 to waive the normal public entertainment licence variation procedure and grant a blanket extension of the closing hour on the Millennium Eve in line with the extended hours for the sale of alcohol (Minute 357/99). No such blanket extension was required for New Year's Eve 2001 as no public entertainment licensees wish to open beyond their permitted hours.
- 5.2 The grant of a special order of exemption by the magistrates automatically extends public entertainment licensing hours in line with the extension to alcohol licensing hours granted. The proposed system of restriction orders can be sought by local authorities, and the police and local residents, and the police also have powers to close on-licensed premises. It is, therefore, considered that the public entertainment provisions are not also necessary to assure public order, and public entertainment licences should be varied automatically for the extended period provided for the sale of alcohol.

6 CRIME AND DISORDER IMPLICATIONS

- 6.1 The Government has reviewed the impact of the extension for New Year's Eve 2001 and New Year's Day 2002 and concludes that there was no significant detrimental impact in terms of crime, noise or anti-social behaviour when compared with any normal New Year's Eve in the recent past. However, there were several benefits. In many cases, businesses did not have to meet the cost of applying for special orders of exemption and the courts did not have to process applications. Restriction orders were extremely rare, as at the Millennium, but this may have been affected by the police acquiring new statutory powers to close down pubs and clubs that were disorderly or excessively noisy from 1 December 2001. In terms of public protection, the advantage of these powers is that they provide the police with a powerful lever to encourage licensees to eliminate drunkenness, disorder and general rowdiness from their premises at all times without the necessarily having to issue a closure order.
- 6.2 Nationally, the indications were that very few pubs or clubs took full advantage of the 12 hours relaxation. Most appear to have opened later than at previous New Year's Eves when the most common closing time imposed by magistrates was 12.30am, with the pub representative organisations indicating that between 1.00am and 3.00am were the most common closing time on 1 January 2002. In many cases, nightclubs and discotheques across the country did open later than pubs, taking fuller advantage of the relaxation.

- 6.3 Overall 2001 appears to have been a relatively quiet New Year's Eve and disturbance to local residents appears to have been minimal. It was, however, a very cold New Year's Eve with poor weather conditions nationally, which may have inhibited travel and reduced the number of people pursuing commercial entertainment away from the home.
- 6.4 Essex Police believe that deregulating New Year's Eve and the potential to automatically extend public entertainment licences is the way forward. They consider that the additional Police powers and a facility for restriction orders will assist in controlling any potential problems in the unlikely event that anyone trades for 36 hours.
- 6.5 Essex Police have suggested that a responsive noise complaint service would assist in dealing with problems for example a closure order, and have requested that the Council consider this. This will be considered as part of the best value review of public regulation, inspection and protection.

7 RESOURCE IMPLICATIONS

- 7.1 As far as the administration of public entertainment licensing is concerned, there would be no resource implications if public entertainment licences are automatically extended in line with the proposed relaxed hours permitting sales of alcohol on all future New Years' Eves.
- 7.2 If public entertainment licences are not automatically extended, the local authority can recover its costs by charging a fee for variation of licence conditions. This could cause practical difficulties of having to process a number of applications in a short space of time. Indeed, for the Millennium, Members decided to waive the variation fee and grant a blanket extension to all premises holding a public entertainment licences.
- 7.3 There may be additional resource implications to respond and monitor noise complaints if trade continues throughout the night, but it is not possible to quantify the amount.

8 LEGAL IMPLICATIONS

- 8.1 If an application for a restriction order were necessary, legal resources would be required.
- 8.2 The local authority must exercise its public entertainment licensing duties in a fair and judicious manner.

9 PARISH IMPLICATIONS

- 9.1 Currently, there are 12 on-licensed premises with a public entertainment licence in the district.

10 RECOMMENDATION

- 10.1 It is proposed that the Committee **RESOLVES:**
- (1) To support the proposed all-night relaxation of licensing hours at all future New Year's Eves and that all existing public entertainment licences should be extended automatically in line with the relaxed hours permitting sales of alcohol on all future New Years' Eves.
 - (2) To agree that applications for restriction orders should be made to licensing justices regardless of the existence of appropriate or timely licensing sessions, and that the proposed arrangements for these orders satisfy the tests of proportionality, fair balance and desirability.
 - (3) To agree that the proposals put forward in the consultation exercise maintain necessary protection for those affected, and that they do not prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise.
 - (4) To add any other comments on benefits or disadvantages that would occur from the proposals, any views on the costs and savings identified.

G P Woolhouse
Head of Housing, Health & Community Care

Background Papers:

"Changes to Licensing Hours during all future New Year' Eves", by the Department for Culture, Media and Sport, dated April 2002.

For further information please contact Robert Peacey on:-

Tel:- 01702 318053
E-Mail:- robert.peacey@rochford.gov.uk