

ABERDEEN CITY COUNCIL

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COMMITTEE	Licensing Committee
DATE	17 September 2013
ACTING DIRECTOR	Acting Director of Corporate Governance
TITLE OF REPORT	Late Hours Catering Guidelines - Update
REPORT NUMBER:	CG13/046

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1. PURPOSE OF REPORT

The purpose of this report is to clarify and consolidate the Committee's policy guidelines for late hours catering licences.

2. RECOMMENDATION(S)

It is recommended that the Committee:

1. approves its consolidated policy on late hours catering (see appendix 2); and
2. notes that officers will publish it online on the Committee's late hours catering licence web page.

3. FINANCIAL IMPLICATIONS

None.

4. OTHER IMPLICATIONS

The Committee's policy will be transparent and easily accessible if it is collated in one document and published online.

5. BACKGROUND/MAIN ISSUES

The Licensing Committee has taken various policy decisions regarding late hours catering licences over a number of years (see Appendix 1). These have been difficult for interested parties to follow and it is felt appropriate to have one document reflecting the current policy position. The decisions have therefore been consolidated into one document (see appendix 2) for ease of reference. This should be of assistance to all interested parties including the Committee, licence holders, applicants, consultees and members of the public. It is also intended that the document is published on the Committee's web page for late hours catering licences.

The relevant policy decisions of the Committee to be addressed in the consolidated Guidelines are shown in Appendix 1.

Once the consolidated document has been approved, it will be made available on the appropriate web page.

6. IMPACT

An Equality and Human Rights Impact Assessment is not required as the proposal does not disproportionately impact on persons with protected characteristics compared to persons without such characteristics.

7. MANAGEMENT OF RISK

Providing a consolidated document on the Council's website will reduce the risk of complaint about the Council's late hours catering policies being difficult to access and is good practice in terms of freedom of information legislation.

8. BACKGROUND PAPERS

- Minute of the Licensing Committee, dated 15 September 1992
- Minute of the Licensing Committee, dated 2 October 1992
- Minute of the Licensing Committee, dated 4 October 1996
- Minute of the Licensing Committee, dated 25 May 1998
- Minute of the Licensing Committee, dated 24 August 1998
- Minute of the Licensing Committee, dated 2 June 2010

9. REPORT AUTHOR DETAILS

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Licensing Committee - 15 September 1992

The Committee resolved that the late hours catering premises in the City Centre be permitted to open until 2am every day (now superseded) and premises located outwith that area be permitted to open until midnight every day.

Licensing Committee – 2 October 1992

The Committee adopted a boundary for the City Centre area. (see Appendix 2)

Licensing Committee - 4 October 1996

The Committee resolved to extend the maximum terminal hour of trading for late hours catering premises in the city centre to 3am daily. (now superseded).

Licensing Committee - 25 May 1998

The Committee approved:

- (a) a definition for hot food for late hours catering licences (now superseded); amendments to their guidelines to allow 24 hour petrol stations
- (b) and in-store cafes of 24 hour superstores to trade in terms of a late hours catering licence until 5am, and that such applications could be dealt with under delegated powers.

Licensing Committee – 24 August 1998

The Committee extended its guidelines to allow late hours catering premises at the beach to trade until 3am.

Around 2001/2002

The Committee agreed later guideline terminal hours for late hours catering premises in the city centre, until 3am weekdays and 4am Saturday and Sunday mornings. This allowed an additional one hour period after the maximum terminal hour applied to late opening liquor premises.

Licensing Committee - 2 June 2010

The Committee reviewed its guidelines and agreed to maintain the status quo of a maximum 4am terminal hour on Saturday and Sunday mornings.

#### Licensing Committee – 17 November 2010

The Committee had before it, for noting, a report advising it of the proposed amendments to Section 42 (Late Hours Catering) of the Civic Government (Scotland) Act 1982, as introduced by the Criminal Justice and Licensing (Scotland) Act 2010.

#### Licensing Committee – 6 June 2012

The Committee considered important changes to Late Hours Catering Licensing, introduced by the Criminal Justice and Licensing (Scotland) Act 2010 which widened the definition of food. This resulted in an additional 24 shops which were now required to hold a late hours catering licence to sell food between the hours of 11pm and 5am.

#### Licensing Committee – 20 November 2012

BST begins in March and ends in October of each year and the “clock change” always falls on a Sunday. There is no reference in the Civic Government (Scotland) Act 1982 to the beginning or ending of BST, which meant late hours catering premises lost an hour of trading at the beginning of BST and gained an extra hour at the end of BST.

The Committee therefore resolved the matter by imposing a new standard condition of licence, effectively disregarding the clock change for late hours catering licensing purposes on the night when the change takes place.

#### Licensing Committee – 29 January 2013

The Committee ratified the new condition of licence for the clock change and also decided to amend condition 4, as follows:

“The licence holder shall not supply food outwith the permitted hours, regardless of whether they have been ordered or paid for within these hours.”

This change was in response to information supplied by the Police that customers’ food was being prepared after the terminal licensed hours in some premises.

Late Hours Catering – Law and Policy Guidelines

**1. Legislation**

In terms of Section 42 of the Civic Government (Scotland) Act 1982 a late hours catering premises licence is required for the sale to or the consumption by the public of food between the hours of 11pm and 5am. This includes consumption of food both on and off the premises.

A late hours catering licence is not required if:

- a) the premises are licensed for the sale of liquor under the Licensing (Scotland) Act 2005; or
- b) where there is a public entertainment licence in place under Section 41 of the Civic Government (Scotland) Act 1982.

A licence is required for such premises if the late hours catering takes place outwith the permitted hours for the sale of alcohol or for public entertainment.

Definition of food – ‘Food’ (or ‘foodstuff’) means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

‘Food’ includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment.

If the products to be sold or consumed between 11pm and 5am fall within the definition of food then a late hours catering licence is required. This means that late opening shops as well as takeaways require such licences.

**2. Licensing Committee Policy Guidelines**

a. City Centre/Beach Area and Outwith the City Centre

The Committee has different terminal hours for premises within the city centre and beach area and outwith those areas. The area boundaries are as follows:

City Centre Area – Holburn Junction, Union Street, Rose Street, Skene Street, Rosemount Viaduct, Schoolhill, Upperkirkgate, Gallowgate, Littlejohn Street, West North Street, East North Street, Commerce Street, Virginia Street, Trinity Quay, Guild Street, College Street, Wellington Place, Springbank Terrace, Willowbank Road and Holburn Street;

Aberdeen Beach Area – The Beach Esplanade, the Beach Boulevard and Links Road; and

Outwith City Centre/Beach – All areas within the Aberdeen City Council boundary except the City Centre and Aberdeen Beach Areas.

b. Terminal hour

**City Centre and Aberdeen Beach area**

Premises which are located in the city centre have a current terminal hour of 4am at weekends and 3am Monday to Thursday. The city centre for late hours catering purposes also includes the beach area.

**Outwith City Centre**

Premises outwith the city centre or beach area have a terminal hour of midnight Monday to Sunday.

c. 24 Hour Superstores and Petrol Stations

- i) 24 hour superstores, which have an in-store café, have a guideline terminal hour of 5am for late hours catering licensing; and
- ii) 24 hour petrol stations have a guideline terminal hour of 5am for late hours catering licensing.

d. Delegated Powers

Officers have delegated powers to deal with applications, unless there is a potential ground for refusal. For example, an application outwith the guidelines or a representation or an objection has been submitted.

e. Beginning and end of British Summertime (BST)

The Licensing Committee introduced the following condition of licence to ensure that late hours catering premises neither lose nor gain trading hours at clock changes. “The beginning or ending of British Summer Time is to be disregarded for the purpose of determining the time at which the period of licensed hours ends and, accordingly, the period ends at the time it would have ended had British Summer Time not begun or ended.”

Late opening liquor licensed premises deal with the clock change in exactly the same manner.

f. Managing Terminal Hours/Closing Times

Licence holders are not permitted to take payment prior to their terminal hour and permit customers to remain in their premises beyond those hours whilst food is prepared and/or eaten. All orders must be prepared and the premises closed by the terminal hour.



