



Walsall Council

REPORT OF THE INTERIM REGULATORY MANAGER

LICENSING AND SAFETY COMMITTEE

28 NOVEMBER 2012

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

LATE NIGHT LEVY PROVISION

1.0 Summary of report

- 1.1 This report will provide the Licensing & Safety Committee with information in relation to the potential for the licensing authority (i.e. Council) to introduce a late night levy for licensed premises that sell alcohol between midnight and 06:00 hours and an approximation of the income associated with it.

2.0 Recommendations

- 2.1 That the report initially be noted by the Licensing and Safety Committee.
- 2.2 That Committee recommend referral of the report to Council (as the licensing authority) for consideration and for Council to decide whether the late night levy provision be progressed further following initial formal consultation with the chief officer of police and police and crime commissioner.

3.0 Background information

- 3.1 The governments' coalition agreement included the commitment to permit local councils to charge more for late night licences associated with alcohol supply, to pay for additional policing and associated local authority issues.
- 3.2 The Police Reform and Social Responsibility Act 2011 has introduced the potential provision of a late night levy for licensed premises, this came into effect from the 31 October 2012. The option to implement the levy will be left entirely at the discretion of the relevant licensing authority.

- 3.3 The aim of this levy is to permit licensing authorities to charge those businesses that benefit from trading alcohol in a safe late-night economy, for the extra enforcement costs that the night-time economy generates for police and local authorities.
- 3.4 If the licensing authority decides to apply the levy it will affect all premises (both on and off-trade) that are licensed to sell alcohol during the hours to which the levy applies throughout the entirety of the Borough.
- 3.5 It will be up to the licensing authority to determine the time at which the levy will apply in their area, although it will be restricted to applying between the hours of midnight and 06:00 hours only.
- 3.6 Discretionary exemptions are permitted, but these are prescribed by regulation and will only apply to:
- Premises with overnight accommodation (only where alcohol is served to residents)
 - Theatres and Cinemas
 - Bingo Halls
 - Community Premises
 - Business Improvement Districts
 - Country village pubs.
 - Community amateur sports clubs
 - New Years Eve

This is where premises supply alcohol between 24:00hrs and 06:00hrs

- 3.7 Licensing authorities will be able to offer a discretionary reduction to Best Practice Schemes (Best Bar None, Pub Watch, Shop Watch etc) that meet relevant criteria. These criteria will be assessed using benchmarks and will be prescribed as follows:
- A clear rationale as to why the scheme's objectives and activities will, or are likely to, result in a reduction of alcohol related crime and disorder.
 - A requirement for active participation in the scheme by members.
 - A mechanism to identify and remove in a timely manner those members who do not participate appropriately.

The maximum percentage discount will be 30%. There will be no cumulative discounts.

- 3.8 Certain types of on-trade premises that receive small business rate relief will be eligible for a discretionary reduction from the levy. This is prescribed by regulation and will apply to premises with a rateable value of £12,000 or less.
- 3.9 The levy will be collected annually and the net revenue will be split between the licensing authority and the police. After deductions for

introducing and administering the levy, the rate of the revenue split will be, 30% Local Authority and 70% to West Midlands Police.

- 3.10 The Police do not have to spend their proportion of the levy in the local area where it has been collected, or on policing associated with alcohol related crime and disorder.
- 3.11 Licensing authorities will be able to fund services (in relation to the supply of alcohol late at night) connected to the management of the night time economy in addition to services that prevent and tackle alcohol related crime and disorder, public safety or public nuisance. This could be used to fund street cleansing for example.
- 3.12 The late night levy will be set at a national level. Prescribed by regulation the following charges will be applicable:

Rateable value bands	A	B	C	D	E	Dx2	Ex3
	No rateable value to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 and above	Multiplier applies to premises in category D that primarily or exclus'ly sell alcohol	Multiplier applies to premises in category E that primarily or exclus'ly sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

- 3.13 Walsall has 202 premises whose terminal hour is after 00:01 hours and therefore, maybe required to pay any imposed levy.
- 3.14 Premises will still be able to submit up to 12 Temporary Event Notices that may be in effect during the prescribed levy times. This will not make them liable for payment of the levy.
- 3.15 Members will be aware that a Cumulative Impact Policy is also in effect for Walsall Town Centre only. This creates a rebuttable presumption that applications for new premises licences, or club premises certificates or variations, which relate to the sale or supply of alcohol and are likely to add to the existing cumulative impact, will normally be refused, unless it can be shown that the premises concerned, will not add to the cumulative impact.

4.0 Resource considerations

4.1 **Financial:** Disregarding potential exemptions/reductions or potential applications to reduce hours, **Appendix 1** shows that if the late night levy were to be applied to all, then the gross income generated could amount to approximately £183,863.

It should be noted that the true net income figure generated should the levy be introduced, will only be fully known when exemptions are applied, all files are re evaluated to confirm trading hours and the parameters for administrative costing have been fully evaluated.

The licensing authority should also consider that a significant number of businesses that would currently be liable (111), and are included in the table, have licenses to sell alcohol up until 01:00 hours. It is highly likely that a significant number of these premises will decide that the cost of the levy may not be worth the continued selling of alcohol between midnight and 01:00 hours.

It should also be noted that the licensing authority would not be allowed to charge for any variation to reduce hours of sale of alcohol as a result of the implementation of the late night levy. This would have an impact on the licensing service as the relevant number of variations would need to be processed. However, this would be a one off process and any financial impact would be offset against the income received from the late night levy.

Under the legislation licensing authorities can deduct permitted collection, administration and enforcement costs from revenue received. Regulations specify the parameters and type of expenses that may be deducted by the licensing authority.

At this point a 30% / 70% split between the net income is divided between the licensing authority and the police respectively. Based on the figures in Appendix 1. 30% share to the Council would equate to £55,158. West Midlands Police would receive £128,704. However, as stated earlier these figures are gross income and obviously the net figure will be less once prescribed deductions have been made.

For existing holders of a late night authorisation the first payment of any levy fee, must be made at the same time as the annual fee payment.

In the case of new authorisations the late night levy is payable after 14 days of grant and then on the anniversary of original grant.

If a levy is introduced the licensing authority must pay the specified portion (70%) to West Midlands Police within 28 days of the last date of the levy year. This appears to mean also that the Licensing Authority is liable to pay the police's portion even if it has not received those monies from the licence holders.

The licensing authority will be required to publish the administration costs they have deducted from the levy revenue at the end of every year.

Licensed premises (that supply alcohol) both inside/outside the levy times will also have to continue to pay an annual fee as is prescribed by regulation. This fee is again based on the non domestic rateable value of the premises.

- 4.2 **Legal:** Part 2, Chapter 2 of the Police Reform and Social Responsibility Act 2011 deals with the concept of licensing authorities introducing a late night levy. "The late night levy requirement" means a requirement to pay the licensing authority the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 06:00 hours.

The licensing authority should be aware that the late night levy provision came into effect on 31 October 2012.

Prior to making a formal decision to implement the levy, it is intended that the licensing authority will have discussions with the relevant chief officer of police, the PCC (Police & Crime Commissioner) and the local police to decide whether in the first instance, it is appropriate to introduce such a levy.

If a late night levy is to be introduced, licensing authorities will (via prescribed consultation) then need to state its intention to introduce a levy, its proposed design and the services that the licensing authority intends to fund with its share of the levy income. It is expected that the earliest date such a levy could come into force is July/August 2013.

In respect of local residents, they will be able to use their existing rights to make representations and other channels of communication to call for the implementation or not, of the levy within the borough.

- 4.3 **Staffing:** Nothing arising from this report at this stage. However, if the levy is introduced it will require additional staff to administer the scheme as it will place additional regulatory burdens on the licensing unit.

5.0 **Citizen impact**

- 5.1 Nothing arising from this report at this stage.

6.0 **Community safety**

- 6.1 Nothing arising from this report at this stage.

7.0 **Environmental impact**

7.1 Nothing arising from this report

8.0 Performance and risk management issues

8.1 Nothing arising from this report

9.0 Equality implications

9.1 None arising from this report.

10.0 Consultation

10.1 None at this stage.

11.0 Appendices

11.1 Appendix 1 – Table of potential gross levy income

12.0 Contact Officer:

12.1 Steve Knapper, Principal Licensing Officer. 01922 652221

Appendix 1 – Potential Late Night Levy Income

Finish Times	Band A £299	Band B £768	Band C £1259	Band D £1365	Band D2 £2730	Band E £1493	Band E2 £4440	Totals
00:001 – 01:00	7	82	17	-	1	3	1	111 (£98,121)
01:01 – 02:00	1	38	14	2	-	3	-	58 (£54,318)
02:01 – 03:00	-	11	-	2	-	-	-	13 (£11,178)
03:01 – 04:00	-	4	2	1	-	-	-	7 (£6,955)
04:01 – 05:00	-	1	1	-	-	-	-	2 (£2,027)
05:01 – 06:00	-	1	-	1	-	2	-	4 (£5,119)
Trading beyond 6 but not 24 hrs	-	1	1	-	-	-	-	2 (£2,027)
24 Hours	2	1	1	-	-	1	-	5 (£4,118)
Total	10	139	36	6	1	9	1	202 (£183,863)