

Meeting:	Licensing and Enforcement Committee	Date:	18th June 2013
Subject:	Late Night Levy		
Report Of:	Corporate Director of Services and Neighbourhoods		
Wards Affected:	ALL		
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Appendices:	None		
Reference No.	ES21158		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To inform GLT/Members of the details and implications of adopting a Late Night Levy (LNL) for the City of Gloucester.

2.0 Recommendations

- 2.1 That the report is noted.

3.0 Background and Key Issues

- 3.1 The Police Reform and Social Responsibility Act 2011 (PRSR Act) amends and supplements the Licensing Act 2003 with the intention of 'rebalancing' it in favour of local authorities, the Police and local communities. Chapter 2 of Part 2 of the PRSR Act allows Licensing authorities to charge a LNL to those persons who are licensed to sell alcohol late at night in the Licensing Authority's area as a means of raising a contribution to the cost of policing the late-night economy.
- 3.2 It is for the Council as Licensing Authority to decide whether a LNL is implemented, however, it should only do so after consideration is given to 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 6am. Finally, having regard to those costs, the desirability of raising revenue by means of a LNL on Premises Licence holders and Club Premises Certificate holders should be considered. The views of the Chief Officer of Police and the Police and Crime Commissioner (PCC) would be fundamental to this process. There has not yet been a formal request from Gloucestershire Constabulary for this Licensing Authority to consider the introduction of a LNL.

- 3.3 The LNL supply period must begin at or after midnight and end at or before 6am and affects any Premises Licence or Club Premises Certificate authorised to sell or supply alcohol during this period whether or not the alcohol is for consumption on or off the premises and regardless of whether the authorisation covers standard or non standard hours. 'Non standard timings' apply where the licence holder wishes to record occasions when the timings will change. For example, where the activity is planned to go on longer on Christmas Eve or weekends preceding bank holidays. The Levy must also cover the whole district and not just parts of it.
- 3.4 Although the supply period parameters are as outlined above the period can be for any length within these parameters. If the Licensing Authority decides that certain types of premises should not be required to pay the levy then they could set the late night supply period to suit those premises. An example would be setting the commencement time at 01.00 or 02.00. However the supply period must be the same every day. It cannot apply at different times on different days.
- 3.5 The Licensing Authority may permit fee exemptions to certain categories of premises. Exemptions could include premises with overnight accommodation (but not all hotels), theatres, cinemas, bingo halls, amateur sports clubs, community premises, country village pubs and any premises only encroaching into the late night supply period on New Year's Eve.
- 3.6 The Licensing Authority is not allowed to exempt any category of premises not referred to in the Regulations and likewise cannot exempt specific premises.
- 3.7 The Licensing Authority may use the LNL to promote and support any appropriate best practice schemes by giving a 30% reduction in the levy to premises which actively participate in these. Schemes such as 'Pubwatch' and 'Best Bar None' are examples of such initiatives. The reduction may also be given to premises that supply alcohol for consumption on the premises and which have a rateable value of £12,000 or less and are in receipt of Small Business Rate Relief.
- 3.8 A minimum of 70% of the net income generated by a LNL will be paid to the PCC. There is no restriction on what the PCC may spend this money on however it is expected that it would be used to tackle crime and disorder associated with late night drinking.
- 3.9 Consequently, the Licensing Authority may retain up to 30% of the net income to fund services it provides to tackle late night alcohol related crime and disorder and services connected to the management of the late night economy. The Licensing Authority can, in future years, change the percentage of the net levy proceeds apportioned between the Police and the Council, subject to a formal consultation.
- 3.10 The Licensing Authority can deduct the costs it incurs in connection with the introduction (or variation), administration, collection and enforcement of the LNL prior to the revenue being apportioned between the Police and the Licensing Authority. There are no specific restrictions on the amount of the expenses which the Licensing Authority can claim in expenses. It should be noted that any financial risk such as lower than expected income or higher than expected costs would need to be underwritten by the Licensing Authority.

- 3.11 Holders of relevant late night authorisations may make a free variation of their Licence or Certificate to avoid operating in the late night supply period. Although the Licensing Authority may not charge for this type of variation the cost of administration will be a deductible expense as outlined above.
- 3.12 The late night levy charges are set by Government and the licensing authority has no discretion to alter these. The fees are based on the non domestic rateable value of the relevant premises and are as follows:-

Rateable Value	Late Night Levy Fee	Current Annual Fee	Total Annual cost
Band A (no rateable value to £4,33)	£299	£70	£369
Band B (£4,301 to £33,000)	£768	£180	£948
Band C (£33,001 to £87,000)	£1,259	£295	£1,554
Band D (£87,001 to £125,000)	£1,365	£320	£1,685
Band E (£125,001 and above)	£1,493	£350	£1,843
In respect of premises in band D and E that primarily or exclusively sell alcohol then a multiplier of x2 is applied to the fee in respect of band D and x3 in respect of band E.			
D x 2 Premises in category D that primarily or exclusively sell alcohol	£2,730	£640	£3,370
E x 3 Premises in category E that primarily or exclusively sell alcohol	£4,440	£1,050	£5,490

- 3.13 Potential income will depend upon the late night supply period. The following gives the potential gross income and number of premises affected for varying supply periods and whose standard hours fall within these hours. In addition there are 105 premises who would be subject to the levy because they have occasional non standard hours such as New Year's Eve, Saint's Days, Bank Holidays etc. The gross yield for these premises would be approximately £72,000.

Late night supply period	00:00 to 06:00	01:00 to 06:00	02:00 to 06:00	03:00 to 06:00	04:00 to 06:00	05:00 to 06:00
Premises affected	99	59	42	21	18	16
Approximate income (£s)	86,000	64,000	36,000	18,000	15,000	13,000

- 3.14 There is a possibility that the premises who have the occasional non standard hours may apply to vary their licence because they could save money by simply applying to extend their hours using a Temporary Event Notification. The current cost of this is £21 per notification. It would also be fair to say that whatever supply period is chosen beyond midnight there will be those who would vary their hours to take them out of the supply period. For example if the supply period commenced at 02:00 then those premises currently going beyond this hour could reduce their terminal hour to 01:30 (say) or even 01:59.
- 3.15 The figures above are gross figures and there will need to be taken into account the costs of administering the levy which could potentially be significant, particularly in the first year. It is very difficult, because of all these variables, to give an accurate forecast of potential income at this stage. These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
 - the collection of levy payments;
 - the enforcement of levy payments; and
 - the cost of processing applications for a variation in relation to the introduction of the levy.
- 3.16 The LNL would be payable at the same time as the annual fee for existing Licence and Certificate holders or, in the case of new premises, 14 days after the grant of application and thereafter annually. Failure to make the full payment on the due date could lead to the suspension of the Licence or Certificate until full payment is received.
- 3.17 Members will need to consider the financial burden placed on businesses by a LNL, which can be two to four times the cost of the current annual fees, as demonstrated in the table within paragraph 3.12. This could affect many premises which are not themselves situated in areas experiencing problems with the late night supply of alcohol, because they would still be expected to pay the levy if their hours fall within the levy supply period.
- 3.18 Those businesses who are currently struggling in today's economic climate, are more likely to reduce their licensing hours for free of charge rather than retain late opening hours and incur the late night levy. If a large number of businesses choose to reduce their hours, there may be a limited number of late night venues open in Gloucester, which could impact on the City's night time economy.
- 3.19 In addition the introduction of a LNL could cause the migration of businesses to areas where a late night levy is not in place, so there is a risk of deterring new businesses into the City. This could have a significant impact on Gloucester City's evening economy if those previously licensed premises which have now closed, remain closed and not occupied with new tenants sometime in the future.

4.0 Alternative Options Considered

- 4.1 There are no options to be considered at this stage.

5.0 Reasons for Recommendations

5.1 This report is for information purposes only.

6.0 Future Work and Conclusions

6.1 None at present

7.0 Financial Implications

7.1 Financial implications have been covered within the content of this report.

8.0 Legal Implications

8.1 For adoption of a LNL the Regulations require the Council to go through a consultation process prior to a policy decision being made. Adopting a LNL in circumstances that result in a negative impact on existing Licence and Certificate holders will require reliable evidential justification in order to withstand a potential judicial challenge.

8.2 As per the Home Office Guidance the final decision to impose a LNL should be ratified by Full Council.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

9.1 None at present

10.0 People Impact Assessment (PIA):

10.1 Not necessary at this stage

11.0 Other Corporate Implications

Community Safety

11.1 None

Sustainability

11.2 None

Staffing & Trade Union

11.3 None

Background Documents:

The Police Reform and Social Responsibility Act 2011

The Late Night Levy (Application and Administration) Regulations 2012

The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012

Home Office Amended Guidance on the Late Night Levy