

# Gloucester City Council

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| <b>Meeting:</b>         | <b>Cabinet</b>  | <b>Date:</b>                              | <b>14<sup>th</sup> September 16</b> |
| <b>Subject:</b>         | <b>Proposal to adopt a Late Night Levy</b>                      |   |                                     |
| <b>Report Of:</b>       | <b>Cabinet member for Communities and Neighbourhoods</b>        |   |                                     |
| <b>Wards Affected:</b>  | <b>All</b>  |   |                                     |
| <b>Key Decision:</b>    | <b>No</b>   | <b>Budget/Policy Framework:</b>           | <b>No</b>                           |
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| <b>Appendices:</b>      | <b>1. Late Night Levy – Consultation Document</b>               |   |                                     |

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 The purpose of this report is to consider whether or not to consult on a late night levy in Gloucester.

### 2.0 Recommendations

- 2.1 Overview & Scrutiny Committee is asked to, subject to any recommendations it wishes to make to Cabinet, to **note** the contents of the report.

- 2.2 Cabinet is asked to **RESOLVE** that:-

- (1) A proposal be made to adopt a late night levy in Gloucester.
- (2) Gloucester City Council proceed with a formal statutory consultation on the proposal to introduce a late night levy as detailed in **Appendix 1**.
- (3) That the Corporate Director be authorised to take all necessary steps to ensure that consultation is undertaken in accordance with the relevant statutory requirements.

### 3.0 Background and Key Issues

- 3.1 Gloucester City Council is mindful of the reduced resources available to Gloucestershire Constabulary to deal with alcohol fuelled crime and disorder within the night time economy.

- 3.2 Part two of the Police Reform and Social Responsibility Act 2011 introduced a new discretionary power for Licensing Authorities to introduce a late night levy to apply to their districts.

- 3.3 This discretionary power, if adopted by the Council, enables the Authority to charge a levy from persons who are licensed to sell alcohol late at night as a means of raising a contribution towards the costs of policing the late night economy. It is important to note that the rationale is not to restrict the extent of the late night economy but to ensure a contribution towards the consequential costs.
- 3.4 A report on the Late Night Levy previously went before the Licensing and Enforcement Committee on 18 June 2013. The Licensing and Enforcement Committee resolved:
1. That the report be noted.
  2. That there will be no introduction of a Late Night Levy at this time. Any future implementation will depend on the City enjoying a vibrant night-time economy.

### **Statutory Criteria for the introduction of the levy**

- 3.5 The decision to introduce the late night levy requirement is for the Council to make. However, the Home Office Guidance makes it clear that as a first step the Council is expected to consider the need for a levy with the Chief Officer of Police and the Police and Crime Commissioner (PCC). Their views are fundamental to this process. The PCC would need to support any evidence that the Police provide in order for the Council to consider whether there is a need to introduce a late night levy in Gloucester.
- 3.6 If there is evidence from the Police for a need to introduce a late night levy then the Council would need to consult on its proposal with residents and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the late night supply period.
- 3.7 The guidance does not specify how long the council should consult on the proposal for. The Home Office guidance states that the consultation "...is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal."
- 3.8 As the regulations do not prescribe how long the Council should consult, it is recommended that a 12 week consultation would be undertaken in accordance with the HM Government's Code of Practice on consultation.
- 3.9 At the end of the consultation, Cabinet will assess the consultation responses. The final decision to introduce the levy and its design would be made by full council.

### **Implementation of the levy**

- 3.10 Following a decision to adopt the levy, the Council must notify the PCC, Chief Officer of Police, neighbouring authorities and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period.
- 3.11 The notice must specify the start date for the levy, the late night supply period, any exemptions and reductions and how the revenue will be shared between the PCC and Gloucester City Council.
- 3.12 Holders of a licence or certificate that will be affected by the decision to adopt the levy must be given the opportunity to apply for a free variation of their licence to exclude themselves from the late night supply period. The cost of processing free

variations will be a deductible expense from the levy receipts in year zero which is the first year in which the levy is introduced.

- 3.13 The guidance also suggests that the Council sets the start date of the levy no less than three months after the notifications have been sent to permit adequate time for licence or certificate holders to apply for a variation of their licences.
- 3.14 Subject to exemptions that may be applied, the levy will apply to the whole of Gloucester City Council's area.
- 3.15 The levy will be payable by the holders of a premises licence or club premises certificate which authorise the sale or supply of alcohol on any days during a period (late night supply period) beginning on or after midnight and ending at or before 6am regardless of whether the premises are actually operating during the period.
- 3.16 The late night supply period can be for any length between midnight and 6am but must be the same every day.
- 3.17 The levy will not apply to Temporary Event Notices that authorise the sale of alcohol during the late night supply period.

### **Permitted Exemptions and Reductions**

- 3.18 The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 prescribe a number of permitted exemption categories from the levy. These exemption categories are discretionary and the Council can decide which, if any, should apply.
- 3.19 These exemption categories are:

***Premises with overnight accommodation:*** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.

***Theatres and cinemas:*** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses. The definition of a "cinema" or a "theatre" should be readily understood by its plain, ordinary meaning.

***Bingo halls:*** Premises in this category must be licensed and regulated under the Gambling Act 2005.

***Community Amateur Sports Clubs ("CASCs"):*** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).

***Community premises:*** Premises in this category must have successfully applied for the removal of the mandatory Designated Premises Supervisor ("DPS") requirement and demonstrated that they operate responsibly.

**Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988. **This would not apply to any premises in Gloucester.**

**New Year's Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

**Business Improvement Districts ("BIDs"):** Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. The Government would expect licensing authorities to carefully consider exempting eligible BIDs from the levy. It is up to the licensing authorities' discretion to determine whether the BIDs in their area are eligible. Gloucester City does not currently have a BID however; there is a BID task group set up to consider this

### **Permitted Reductions**

- 3.20 The Council may wish to use the late night levy to promote and support participation by premises in business-led best practice schemes by deciding to apply a 30% reduction for premises that participate in such schemes. The 30% reduction is a flat rate and there are no cumulative discounts applicable for example, where a premise participates in more than one best practice schemes.
- 3.21 Qualifying best practice schemes are schemes that have:
- 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.
- 3.22 The Council has the discretion to determine how best practice schemes can demonstrate that they meet these benchmarks.
- 3.23 The Council can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief and have a rateable value of £12,000 or less. This only applies to premises licence holders that supply alcohol for consumption on the premises.

### **The levy charge**

- 3.24 The amount of the levy is prescribed nationally and based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises rateable value. The annual charges for the levy will be:

| <b>Rateable Value</b>   | <b>Late Night Levy Fee</b> | <b>Current Annual Fee</b> | <b>Total Annual cost</b> |
|---|----------------------------|---------------------------|--------------------------|
| Band A (no rateable value to £4,33)   | £299                       | £70                       | <b>£369</b>              |
| Band B (£4,301 to £33,000)  | £768                       | £180                      | <b>£948</b>              |
| Band C (£33,001 to £87,000)   | £1,259                     | £295                      | <b>£1,554</b>            |
| Band D (£87,001 to £125,000)  | £1,365                     | £320                      | <b>£1,685</b>            |
| Band E (£125,001 and above)   | £1,493                     | £350                      | <b>£1,843</b>            |
| 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. |                            |                           |                          |
| <b>D x 2</b> Premises in category D that primarily or exclusively sell alcohol  | £2,730                     | £640                      | <b>£3,370</b>            |
| <b>E x 3</b> Premises in category E that primarily or exclusively sell alcohol  | £4,440                     | £1,050                    | <b>£5,490</b>            |

3.25 Any payment of the levy which is owed to the Council can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.

### **Levy Revenue**

3.26 The net levy revenue must be split between the Council and the PCC. The Council must pay at least 70% of the net levy revenue to the Police after it has deducted the administration costs incurred. The Council can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision will be subject to consultation in the same way as the decision is to introduce the levy.

3.27 The Council will be able to retain up to 30% of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night time economy. These activities must have regard to the connection with the supply of alcohol during the late night supply between 00:00 and 06:00 and related to arrangements for:

- The reduction of crime and disorder;
- The promotion of public safety;
- The reduction or prevention of public nuisance; or
- The cleaning of any relevant highway or relevant land in its area.

The money raised from the late night levy could be spent on existing or new services that meet the above criteria.

3.28 Whilst the regulations and guidance prescribe what the Council must spend its portion of the levy on, it does not place a similar spending restrictions on PCC other than to say they should "...be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised."

3.29 The Council can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 describe relevant expenses incurred by the Council in connection to:

- 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.
- The cost of processing applications for a variation in relation to the introduction of the levy.

3.30 The Council is required to publish on its website an estimate of the costs it will deduct from the levy revenue each year.

3.31 In Gloucester, assuming the levy will apply from 00:00 to 06:00 hours, 181 premises will be subject to the levy broken down below:

| Fee Band | Number of Premises | Levy                 | Gross Revenue  |
|----------|--------------------|----------------------|----------------|
| A        | 30                 | £299                 | £8970          |
| B        | 102                | £768                 | £78336         |
| C        | 21                 | £1259                | £26439         |
| D        | 8                  | £1365                | £10960         |
| E        | 20                 | £1493                | £29860         |
|          |                    | <b>Total (Gross)</b> | <b>£154565</b> |

3.32 The figures quoted above are based on the assumption that the levy will apply from 00:00 to 06:00 hours and does not take into account any exemptions, reductions or the number of premises that may apply for a free variation of their licence so it is likely that the total received will be lower than the gross estimate above.

3.33 Gloucester City could propose that there is a 30% reduction to premises that are signed up to both CitySafe and Best Bar None schemes. Currently there are 15 premises that have signed up to Best Bar None.

3.34 Out of the 181 premises mentioned above 94 premises fall into the levy bracket as they have non-standard timings on their Premises Licence. This means that the premises are only open past midnight on New Year's Eve, Good Friday, Bank Holidays and any other days that the premises specify.

3.35 The maximum gross revenue if all 181 premises contribute as in paragraph 3.31 above is £154,565. The table below shows the estimated costs that may be deducted from the total gross revenue if all 94 premises with non-standard timings decided to vary their licence, to ensure they were excluded from the levy supply period. The 30% reduction is an average estimate based on 10 premises qualifying as Members of both Best Bar None and City Safe schemes. The total deductions of £85,153 would give an estimated gross revenue total of £69,412.

| Levy Fee Band        | Cost    | Estimated number of premises that may vary their licence to be excluded due to non-standard timings or qualify for a 30% reduction. | Estimated revenue deducted from variations and 30% reductions |
|----------------------|---------|---|---|
| A                    | £299    | 19  | £5681   |
| B                    | £768    | 55  | £42240  |
| C                    | £1259   | 13  | £16367  |
| D                    | £1365   | 2   | £2730   |
| E                    | £1493   | 5   | £7465   |
| Admin costs          | £89     | 94  | £8366   |
| 30% reduction        | £230.40 | 10  | £2304   |
| <b>Total (Gross)</b> |         |   | <b>£85153</b>   |

3.36 For member's information when Cheltenham introduced the Late Night Levy 65 premises out of the 217 that were identified as having a post-midnight licence chose to vary their licence.

3.37 Introducing the late night levy will be a partnership approach between Gloucester City Council, PCC and the Chief Constable. Both the PCC and the Chief Constable have submitted responses in support of its introduction. Their comments are outlined and reflected in the levy design in Appendix 1.

#### **Proposed design for Gloucester**

3.38 The proposed design of the late night levy is set out below. This proposed design is subject to the outcome of the formal consultation process.

3.39 It is proposed that the late night supply period be 00:00 to 06:00.

3.40 Out of the permitted exemptions only New Year's Eve will apply.

3.41 There will be a prescribed 30% reduction if premises actively participate in both qualifying schemes of CitySafe and Best Bar None.

3.42 No reduction will apply to premises that are in receipt of Small Business Rate Relief.

#### **4.0 Asset Based Community Development (ABCD) Considerations**

There is a legal process within the terms of the Police Reform and Social Responsibility Act 2011 we must follow. One of those processes is that we must consult and engage with businesses that would fall into the levy period. Another process if the levy is adopted, is that the Council every year must advertise how they use the money generated from the Late Night Levy to combat issues surrounding crime and disorder. We will therefore, engage with the Partnership and Engagement Team to develop an effective communication process.

## **5.0 Alternative Options Considered**

- 5.1 If Cabinet decide not to make a proposal to adopt the levy in Gloucester that in effect would be the end of the process for the time being.
- 5.2 There is an opportunity for a Business Improvement District in Gloucester City, a business led initiative lasting five years. The BID has potential to generate income to improve the area of the City it covers. If a BID is adopted for Gloucester City Centre and the BID task group identify improvements to help prevent crime and disorder, this could be an alternative way to address these issues. This could be seen as an alternative to the Levy, but equally if the Levy is introduced an exemption could be investigated and introduced for premises within a BID when the BID comes into effect.

## **6.0 Reasons for Recommendations**

- 6.1 The purpose of the late night levy is to enable those that financially benefit from a vibrant safe night time economy to contribute to the policing and community safety initiatives that enable the licensed premises to flourish.
- 6.2 Gloucester City has many initiatives including high quality CCTV, taxi marshalls and street pastors. These initiatives are resource intensive and the introduction of a late night levy will enable relevant businesses to financially contribute toward these and new schemes ensuring Gloucester City continues to be a safe destination venue.

## **7.0 Future Work and Conclusions**

- 7.1 If cabinet agree to consult on the introduction of a late night levy (as set out in Appendix 1) the consultation period will run for 12 weeks from 15<sup>th</sup> September to 7<sup>th</sup> December 2016. This is a formal statutory consultation process and is fairly extensive in terms of requirements. The Local Authority must publish notice of its proposals in a local newspaper circulating in the Local Authorities area and on its website. It is required to send a copy of the notice and consult with:-
- The Police and Crime Commissioner
  - The Chief Officer of Police
  - All Premise Licence holders
  - All Club Certificate holders
- 7.2 It is intended that the consultation responses will be collated and a report presented to Cabinet on 11<sup>th</sup> January 2017. If, after having considered the responses, the Cabinet agree to recommend the introduction of a late night levy a resolution from full Council will be sought on 26<sup>th</sup> January 2017. A three month notification period will then take place with implementation of the levy taking place on 1<sup>st</sup> May 2017.
- 7.3 If the late night levy is adopted then it will be reviewed after the first twelve months of its introduction. This will be through a report back to Cabinet.



## **8.0 Financial Implications**

- 8.1 The proposed scheme would see the Council receive 30% of the net revenue. This money could be used to fund existing schemes or new projects. The Police and Crime Commissioner has indicated a desire for their 70% proportion of the revenue to be spent within the City for the benefit or reducing demand on policing Gloucester's night-time economy.
- 8.2 The introduction of the proposed levy would see a total levy upon the Council of £1,536 to cover both the Guildhall and Blackfriars Priory.
- 8.3 The Council will incur costs in the administration, collection and enforcement of the levy. The extent of these costs will be determined when designing the scheme. Any costs incurred will be met by a separate budget from the revenue raised by the levy, before the split is made between the PCC and the Council.

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

## **9.0 Legal Implications**

- 9.1 The introduction of the late night levy is provided by the Police Reform and Social Responsibility Act 2011.

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

## **10.0 Risk & Opportunity Management Implications**

- 10.1 The risk management implications for this report are as follows:-

- If a late night levy is introduced the Local Authority may see an increase in minor variation applications to reduce the hours of operation.
- It could have an economic impact on any perspective investors.
- The late night levy doesn't just capture the businesses that serve alcohol in crime and disorder hotspots it captures any business that sells alcohol between midnight and 06:00.

## **11.0 People Impact Assessment (PIA):**

- 11.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

## **12.0 Other Corporate Implications**

### Community Safety

- 12.1 The late night levy could help promote community safety initiatives by helping reduce Crime and Disorder during the night time economy.

### Sustainability

- 12.2 None

### Staffing & Trade Union

12.3 None

**Background Documents:**

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

The Late Night Levy (application and Administration) Regulations 2012

Amended guidance on the Late Night Levy (24 March 2015)