

Gloucester City Council

Meeting:	Council	Date:	20th July 2017
Subject:	Late Night Levy		
Report Of:	Cabinet Member for Communities and Neighbourhoods		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Darren Mountford, City Centre Improvement Officer		
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Appendices:	1. Statutory Criteria, Permitted Exemptions, Reductions and Levy Charge		
	2. List of Consultation respondents		
	3. Breakdown of the feedback received and Officer comments		
	4. Crime statistics for Gloucester City and email from Chief Inspector Neil Smith with Policing Costings		
	5. Map of the Gloucester Business Improvement District		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 The purpose of this report is for Council to consider the consultation feedback to the proposal to introduce the late night levy and decide whether the Gloucester Business Improvement District is a more effective alternative to deliver community based initiatives for reducing crime and disorder within the night-time economy.

2.0 Recommendations

- 2.1 Council is asked to **RESOLVE** that:-

- (1) The consultation feedback be noted and considered and
- (2) In light of the successful adoption of the Gloucester Business Improvement District (BID) from the 1st August 2017 until 2022, the late night levy is not applied in the City of Gloucester at this time.

3.0 Background and Key Issues of the Late Night Levy

- 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 2 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.
- 3.5 The statutory criteria for the introduction of the levy, Permitted exemptions, Permitted reductions and the levy charge can be seen in **Appendix 1**.

Levy Revenue

- 3.6 The net levy revenue must be split between the Council and the Police Crime Commissioner (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.
- 3.7 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.
- 3.8 The money raised from the late night levy could be spent on existing or new services that meet the above criteria.
- 3.9 Members are to note that whilst the regulations and guidance prescribe what the Council must spend its portion of the levy on, it does not place 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."
- 3.10 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.

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

3.12 In Gloucester, assuming the levy applied from 00:00 to 06:00 hours, 181 premises would 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
		Total (Gross)	£154565

3.13 The proposal was for the late night supply period to start at 00:00 to 06:00 hours and did 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 would be lower than the gross estimate above.

3.14 Gloucester City also proposed that there is a 30% reduction to premises that are signed up to both CitySafe and Best Bar None schemes. Currently there are 19 premises that have signed up to Best Bar None.

3.15 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.

3.16 The maximum gross revenue if all 181 premises contributed as in paragraph 3.12 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
Total (Gross)			£85153

- 3.17 The guidance makes it very clear that the Council must take into account any financial risk, such as lower than expected revenue, prior to making a decision to adopt the levy. If members were to adopt the levy and set the night supply period to start at 00:00, apply the 30% reduction and approve any permitted exemptions, consideration would have to be given to the financial viability of adopting a levy. Whilst there is no threshold of when the reduction in the levy income would become financially unviable, the policy aim of reducing late night crime and disorder might be defeated if there are insufficient funds to make a noticeable difference to the management of the late night economy.
- 3.18 Any decision to exempt certain premises and not others should be based on a sound rationale.
- 3.19 Community premises only qualify where they have successfully applied for the removal of the mandatory designated premises supervisor (DPS). Only community premises that can satisfy the Council and Police that they operate responsibly are granted the DPS exemption.
- 3.20 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.
- 3.21 Introducing the late night levy would be a partnership approach between Gloucester City Council, the PCC and the Chief Constable.

4.0 Cabinet Proposal and Consultation

- 4.1 On the 14th September 2016 Cabinet approved a formal statutory consultation process on the proposal to introduce a late night levy in Gloucester.
- 4.2 The Cabinet proposal is set out below:
- a) Set the late night supply period from 00:00 to 06:00
 - b) 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.
 - c) To apply the 30% reduction to qualifying best practice schemes, in Gloucester's case both Citysafe and Best Bar None.
 - d) Not to apply the 30% reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief and have value of £12,000 or less.
 - e) To set the proposed implementation date as 1st May 2017.
- 4.3 Following the proposal, a 12 week consultation was undertaken between September and December 2016.
- 4.4 The following were consulted by letter:-
- The Police and Crime Commissioner
 - The Chief Officer of Police
 - All Premise Licence holders (343)
 - All Club Certificate holders (37)

Responses

- 4.5 In total, 19 responses were received following the consultation. Attached at **Appendix 2** is a list of consultation respondents.
- 4.6 As the respondents are a mix of categories including licensing solicitors, trade organisations, licence holders and residents detailed individual breakdown of the responses is impractical as it is important appropriate weight is given to each response. A breakdown of the feedback received and Officer comments are attached at **Appendix 3**.
- 4.7 The intention of the levy is to raise funds to contribute towards the costs of policing the night time economy and also any other initiatives that help to reduce and prevent crime and disorder. Success will therefore be shown if the net income produced by the levy, results in a sum that enables the Council and Police to develop initiatives that will improve the late night experience for residents and visitors to Gloucester.
- 4.8 If the Council were to adopt the levy, it must apply to the whole of Gloucester City's boundary to premises with the relevant late night authorisation. There is no discretion to apply it to certain location(s) or to certain types of premises.
- 4.9 The levy fees and charging structure is prescribed in regulations and is something that the Council has no discretion over.
- 4.10 It is not possible at this stage to indicate how many premises would apply for a free variation. It is anticipated that the majority of premises who may apply to vary their licences are those currently licensed between midnight and 1am. However, it is not expected that every premises currently licensed between midnight and 1am will apply to change their licence.
- 4.11 Members are to note that whilst more than 50% of respondents disagreed with the proposed late night supply period, they also objected to the introduction of a levy as a whole.
- 4.12 52% of the consultation responses suggested that the late night levy was not an appropriate way to fund community safety initiatives with 10% stating that a Business Improvement District (BID) is a better replacement and a fairer option to the late night levy. Members of the Licensing Victuallers Association (LVA) have also expressed a preference for a BID over the levy in order to raise revenue.
- 4.13 In making a decision whether to adopt the levy, by law the Council must consider:
1. 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, and
 2. having regard to those costs, the desirability of raising revenue.
- 4.14 With regard to the costs of policing and other arrangements for the reduction or prevention of crime and disorder, the consultation response from the PCC state that the late night levy revenue would contribute towards the costs of Policing to help in the reduction or prevention of crime and disorder. The PCC however also welcome the introduction of the Gloucester BID and the greater ownership that comes with it. They feel a safer night-time economy is best achieved by a coordinated and

sustained effort by all stakeholders, especially the trade. The late night levy does nothing to increase ownership and is therefore unlikely to catalyse greater activity other than what might be funded directly out of the Late night Levy revenue. The PCC therefore welcome a focus on the night-time economy in balance with activity to support the day trade which the BID can deliver.

- 4.15 Gloucestershire Constabulary (since the end of the consultation period) have stated that they fully support the consideration of bringing in a late night levy and have supplied the Council with costs of policing the night time economy in Gloucester.
- 4.16 They state that the annual cost for policing the night time economy in Gloucester on Fridays and Saturdays is £307,840. This works out at £5,920 every Friday and Saturday.
- 4.17 In addition to the above, Gloucestershire Constabulary have also identified 23 additional high demand periods for 2017 where there is a need to deploy additional Police Officers. This includes Bank Holiday Weekends, Pay day weekends (last weekend of each month) Christmas and New Year's Eve etc. This will add another £157,000 per annum to the £307,840 total above. Chief Inspector Neil Smith's email with further information on the Police costings and the crime statistics for Gloucester City can be seen in **Appendix 4**.
- 4.18 Under the Licensing Act 2003, the Council is required to promote the licensing objectives when discharging its function under the Act, which have equal importance:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.19 The adoption of the levy can assist in the achievement of these objectives by providing additional funds.
- 4.20 It was planned to report this feedback to Full Council for a final decision on 23rd March 2017. However, this report was deferred to the Council meeting on 20th July 2017. The Licensing team received notification that a ballot for a Gloucester Business Improvement District would be held from 1st June 2017 for 28 days. As BID's can support similar initiatives as a Late Night Levy through an objective for safer nights, the decision to adopt the Levy was deferred until after the BID ballot was announced so that Members could make an informed decision.
- 4.21 A Business Improvement District is a business led initiative lasting five years. The BID has significant potential to improve the area of the City it covers. The BID task group can identify improvements to help prevent crime and disorder, which could be an alternative way to address these issues.
- 4.22 A ballot was held on 1st June 2017 to introduce a Business Improvement District to the City Centre of Gloucester. 86% of businesses voted and they were overwhelmingly in favour of a BID being introduced. The Gloucester BID will therefore take effect on 1st August 2017.

- 4.23 There are proposals within the Gloucester BID to support community initiatives for the night-time economy, which the late night levy sought to achieve. The BID will last five years and will generate much greater revenue than the late night levy could achieve (£450,000 per year compared to £69,000). The Businesses will also have ownership over what the money is spent on, so it allows greater flexibility and opportunities for further initiatives than the late night levy could offer.

5.0 Asset Based Community Development (ABCD) Considerations

- 5.1 There is a legal process within the terms of the Police Reform and Social Responsibility Act 2011 that 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 have engaged with the Partnership and Engagement Team to develop an effective communication process.
- 5.2 The Business Improvement District supports the principles of asset based community development because it empowers the businesses in the community to take greater ownership in making improvements to the area.

6.0 Alternative Options Considered

- 6.1 If Council decide not to adopt the levy in Gloucester that in effect would be the end of the process for the time being.
- 6.2 The Gloucester BID is seen as an alternative to the Levy, but equally if the Levy is introduced an exemption could be investigated and introduced for premises that participate within a BID. The majority of licensed premises that sell alcohol after midnight in Gloucester (and would be subject to a late night levy) fall within the defined BID area in the centre of Gloucester. Therefore, if Members, are minded to introduce the Levy and exempt premises participating in a BID, the total revenue generated would be significantly reduced. The area covered by the BID can be seen in **Appendix 5**.

7.0 Reasons for Recommendations

- 7.1 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.
- 7.2 The BID also enables businesses to contribute towards these initiatives with the added advantage of improving Gloucester not only during the night time economy but also the daytime economy. Both the Licensing Authority and the PCC support this business led approach and it is therefore recommended that the Late Night Levy is not introduced in Gloucester at this time because the Gloucester BID is considered to be a more effective community based approach.
- 7.3 Gloucester City has many initiatives including taxi marshals, street pastors that are resource intensive and the introduction of Gloucester BID will enable relevant businesses to financially contribute toward these and new schemes ensuring Gloucester City continues to be a safe destination venue.

7.4 It is helpful to note that Cheltenham's late night levy recently ceased from 1st April 2017 in favour of the town's business improvement district, they gave three reasons:

- The need to ensure that businesses were not unduly burdened by two levies;
- The understanding that levy activities would be incorporated in BID activities; and
- The fact that BID income would be substantially more than the income raised through the levy.

8.0 Future Work

8.1 The Police & Crime Act 2017 received royal assent in January 2017 and proposed reforms to the late night levy to make it easier for licensing authorities to implement whilst putting cumulative impact policies on a statutory footing. It proposes to include takeaways in the late night levy and the option of applying the levy to selected parts of the City instead of the whole of it. These provisions will not start until after the Home Secretary has considered any recommendations made by the Lords Select Committee reviewing the Licensing Act:

8.2 The report of the Lords Select Committee was published 4th April 2017, it stated:
"Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished. However we recognise that the Government's amendments may stand some chance of successfully reforming the Levy.

If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under the Police Reform and Social Responsibility Act 2011 abolishing the current 70/30 split and requiring that Late Night Levy funds be divided equally between the police and local authorities.

The Lords Select Committee welcome all the initiatives including BIDs, Best Bar None, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility which such schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality.

We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement Districts in the same way that they can Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternative initiatives."

8.3 The City Improvement Team will follow this progress closely and update Members of any changes that apply.

9.0 Financial Implications

9.1 The Late Night Levy 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.

9.2 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.

9.3 The Council would also incur costs in the administration, collection and enforcement if the late night levy was introduced. 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.

9.4 The Business Improvement District is business led and would not incur any financial burden on the administration and collection of funding including the delivery of community initiatives.

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

10.0 Legal Implications

10.1 There are tests within the 2011 Act under Section 125(3) which provide what the Council must consider when deciding whether to introduce a levy. They are:

1. 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, and
2. having regard to those costs, the desirability of raising revenue.

10.2 The Council is not required under law to adopt the Late Night Levy. Members are required to consider all of the responses that have been received both for and against the introduction of the Late Night Levy.

10.3 If the Council decides to adopt the Late Night Levy there is a statutory process which needs to be followed exactly. Failure to do so could result in a judicial challenge.

10.4 As well as ensuring that the proper procedure is followed (including proper consultation), the Council must take into account all material considerations before making the final decision. The key material considerations are those set out in the 2011 Act.

10.5 There is no appeal against the introduction of a Late Night Levy. However, anyone unhappy who have a sufficient interest about the decision to introduce a levy could apply for judicial review of the Council's decision.

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

11.0 Risk & Opportunity Management Implications

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

- If a late night levy is introduced the Local Authority could see an increase in minor variation applications to reduce the hours of operation.

- The late night levy 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.
- The late night levy does not capture late night takeaways who often contribute towards crime and disorder, whilst the BID captures all businesses trading within the designated zone.
- There are greater opportunities for community initiatives to be delivered through the Business Improvement District with a longer commitment of five years, for businesses to make improvements.

12.0 People Impact Assessment (PIA):

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

13.0 Other Corporate Implications

Community Safety

- 13.1 The Late Night Levy and the Business Improvement District could help promote community safety initiatives by helping reduce Crime and Disorder during the night time economy.

Sustainability

- 13.2 The business led approach under the Business Improvement District provides a sustainable platform to improve the designated areas of the City over the next five years.

Staffing & Trade Union

- 13.3 None

Background Documents:

Consultation responses.

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).

The Local Authorities (Function and Responsibilities) (England) (Amendment) Regulations 2013.

Cabinet Report and Minutes, 14th September 2016.

Consultation Document.