

<p>Non-Executive Report of the:</p> <p style="text-align: center;">Licensing Committee</p> <p style="text-align: center;">8th March 2016</p>	 <p style="text-align: center;">TOWER HAMLETS</p>
<p>Report of: Steve Halsey: Corporate Director of Communities, Localities and Culture</p>	<p>Classification: Unrestricted</p>
<p style="text-align: center;">Late Night Levy Proposals</p>	

Originating Officer(s)	David Tolley: Head of Environmental Health and Trading Standards
Wards affected	All wards

1.0 Summary

- 1.1 The Police Reform and Social Responsibility Act 2011 have introduced an adoptive provision whereby Local Authorities may impose a late night levy on businesses that sell alcohol between midnight and 06.00am. The council can decide what times the levy will operate provided it is between midnight and 6 06:00am (e.g. the levy could be imposed on premises that operate between midnight and 6am or between 1am and 6am, etc.). However it must be the same time each night.
- 1.2 The purpose of the Levy is to assists Council and the Police manage and improve the night time economy. The additional income raised from the levy must be spent on managing the night time economy and is split between the Metropolitan Police and the Council on a 70:30 percentage basis. The money can be used for a range of things and can be given to other agencies where they can assist in the reduction of crime and disorder or improve the night time economy.
- 1.3 To enable the levy to be introduced across the Borough a consultation of businesses and other interested groups that may be affected by the introduction of the levy must be carried out. If introduced, the levy will apply to any licensed premises that sells alcohol and operates within the set times of the levy. The levy will apply to licensed premises with on and off sales of alcohol. The Council does not have the power to limit the levy to certain parts of the Borough, thus if introduced it will be a borough wide levy.

2 Recommendations

- 2.1 That the Licensing Committee note, consider and comment on the proposal that Cabinet has put forward to consult on the introduction of a Late Night Levy on Licensed Premises within the borough that operate within the set time of the levy.

3 BACKGROUND

- 3.1 The Regulations governing the introduction of the levy, set the amount of levy that can be imposed in relation to the rateable value of the property, how the levy should be divided amongst the Metropolitan Police and Local Authority and the type of activities that the levy can be spent on within the Local Authority. The levy is set by Government depending on the rateable value of the property that is licenced to retail alcohol, in the same manner that the annual licence fee is set.
- 3.2 The levy enables the Local Authority to raise a contribution from late opening alcohol suppliers towards policing the night-time economy. It is a provision which the Local Authority has the power to adopt, but the levy must cover the whole of the licensing authorities' area. The Local Authority can also choose the period during which the levy applies every night, between midnight and 6.00am, but it must be the same for every day. There is also a possibility for specific exemptions and reductions to be granted with regards to the levy payment.
- 3.3 The aim of the levy is to empower Local Authorities to charge businesses that supply alcohol late into the night for the extra enforcement costs that the night-time economy generates for police and licensing authorities. The Government consider it is right for businesses which profit by selling alcohol in the night time economy to contribute towards the costs of managing the night-time economy, rather than relying on other taxpayers in the community to bear the full costs.
- 3.4 The Metropolitan Police have stated that they do post additional staff, a Police Sergeant and 6 Police Constables, every Friday and Saturday night to deal with for specific night-time economy issues. Under a special services agreement the cost of such a posting would be in the region of £336,752 a year.
- 3.5 There are approximately 200 alcohol related ambulance call-outs per month. In relation to all ambulance call-outs in Tower Hamlets, 17% are between midnight at 6.00am for the whole week, with 22% and 15% at weekend and weekdays respectively during midnight and 6.00am. As a general rule it has been estimated that one third of ambulance pick-ups are alcohol related.
- 3.6 The licensing authority must consider the desirability of introducing a levy in relation to the costs of policing and other arrangements for the reduction or prevention of crime and disorder.

- 3.7 If the local authority chooses to introduce the levy in their area, all licensed premises which are authorised to sell alcohol within the levy period will be able to make a free minor variation to their licence before the levy is introduced, so as to avoid the levy.
- 3.8 The Metropolitan Police would receive approximately 70% of the net levy revenue. The net levy revenue amount would be less deduction by the Local Authority for such items as the collection of payments, procedure for implementation of the levy and publication of its statutory statement. MOPAC have indicated that it would agree to have their allocation spent within the Borough through the current partnership arrangements.
- 3.9 The Local Authority must allocate their proportion of the net levy amount on the following activities:
- Reduction or prevention of crime and disorder
 - Promotion of public safety
 - Reduction or prevention of public nuisance
 - Cleaning of any relevant highway or relevant land in it' area
- 3.10 The estimate from the income of the LNL is detailed in Appendix One, it must be noted that this is an estimate only and is dependent on the exemptions and reductions that may be granted. The provision of free minor variations during the lead up period to the introduction of the levy would have an impact on the estimates presented in the appendices.
- 3.11 The increase in annual fee for the licence holder is shown in Appendix Two. It must be noted that the annual fee, without the levy component is set by Government depending on the rateable value of the property and not locally. The fees set for licensed premises have not increased since their introduction in 2005. During the intervening 10 years, the demand for services along with premises opening late, it is now appropriate to determine other ways of financing the services needed to manage the impacts of late night opening.
- 3.12 Appendix Three shows the type of premises usage that would be affected by the introduction of the levy fee, the relevant Licensing period in intervals of one hour and the Valuation Band.
- 3.13 In the case of current late night licences the levy is payable annually along with the licence fee. With new licences, it is payable within 14 days of the grant of the licence and reverts back to annually afterwards.
- 3.14 If the levy is not paid within 21 days, the Council is required to suspend the premises licence pending payment.

Consultation

- 3.15 The local authority must consult before the introduction of the levy, that consultation must include MOPAC, the relevant chief officer of police and businesses affected.
- 3.16 The consultation document must 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 revenue.
- 3.17 The consultation must be published on line and in a local newspaper, details sent to MOPAC and the chief officer of police, and all licensed premises that are permitted to sell alcohol for the times when the levy will apply.
- 3.18 The licensing authority will need to assess the consultation responses and make a final decision about the introduction of the levy, which will need to be approved by full Council.
- 3.19 It is suggested that the date of commencement of the late night levy, would come into effect three months after adoption by full Council, to enable licenced premises the opportunity to make variations to avoid having to pay the levy.
- 3.20 The supply period for the determination of the levy would need to be made by Members. It is suggested that the time period should commence at midnight, as this may have a greater impact on reducing reported crime and ant-social behaviour.

Potential Exemptions from the LNL

- 3.21 The legislation for the introduction of the LNL state that certain premises can be exempt from paying the levy. This will form part of the consultation process, but an indication of the exempt premises should be given in the consultation document. These are;
 - Premises with overnight accommodation
 - Theatres and cinemas
 - Bingo Halls
 - Community Amateur Sports Clubs
 - Community premises
 - Country village pubs
 - Business Improvement Districts
 - Premises authorised to sell alcohol between 00:00 and 06:00 on 1st January every year (but not between those times on any other day of the year)

- 3.22 It is proposed, as a basis for any consultation, that the following premises, as permitted by regulations, are exempt or not exempt from the levy for the following reasons.

Premises with overnight accommodation: It is considered that these premises do not contribute significantly to the detrimental effects of the late night economy. However this exemption would not apply if alcohol is served during the late night supply period to members of the public who are not staying overnight.

Theatres and cinemas: This exemption applies if alcohol is served during the late night supply period only for consumption on the premises to ticket holders, participants in the production or invited guests to private events; they must be bona-fide theatres or cinemas and the sale of alcohol must not be their primary purpose. It is considered that these premises do not contribute significantly to the detrimental effects of the late night economy.

Bingo Halls: these premises must have licenses under the Gambling Act 2005 and the playing of bingo must be the primary activity. There are currently no Bingo Halls in Tower Hamlets and should be exempt.

Community Amateur Sports Club: these are clubs registered as Community Amateur Sports Clubs that are entitled to various tax concessions. It is considered that these premises do not contribute significantly to the detrimental effects of the late night economy and should be exempt.

Community Premises: these are premises that form part of the church hall, chapel hall, community hall and other similar buildings. It is considered that these premises do not contribute significantly to the detrimental effects of the late night economy and should be exempt.

Country Village Pubs: these are pubs that are solely designated in rural settlements with a population less than 3000, there are none in Tower Hamlets. There are currently no country village pubs in Tower Hamlets and should be exempt.

Business Improvement Districts (BIDS): there are currently no BIDS in Tower Hamlets and should be exempt.

New Year's Eve: appertaining to premises which are authorised to sell alcohol between midnight and 6am only on New Year's Day. These premises should be exempt, as for one day a year they would not add to the late night economy pressures, if there was no exemption the premises could apply for a temporary exemption notice which would add burdens on the Council and businesses alike.

Potential Reductions from the LNL

- 3.23 Licensing authorities can use the late night levy to promote and support participation by premises in other business-led best practice schemes, for example Purple Flag or the Best Bar None schemes. A reduction of 30% of the levy fee could be possible for businesses which participate in such schemes, currently there are 8 businesses that have been awarded the Best Bar None Scheme. The offer of a financial reduction may drive businesses to join these schemes thus increasing participation. It is proposed to offer a conditional reduction to premises that are awarded the Best Bar None award.
- 3.24 A reduction can also be offered to on-trade premises that are in receipt of Small Business Rate relief and have a rateable value of £12,000 or less, currently estimated to be 36 premises. It is proposed not to provide a reduction, these premises receive business rates relief to assist in their viability, however, if they operate in the late night period there is no reason to suggest that they are less likely than similar businesses to contribute to the detrimental effects of the late night economy. Due to their rateable value, they are more likely to be liable to the lower levy amounts.

Proposals

- 3.25 The Metropolitan Police and the Council would have to determine how they would wish to spend their allocation and detail the additional work that would be carried out to police the night time economy.
- 3.26 Based on the current number of premises opening between midnight and 6am, and using midnight as the point the levy commences, the additional income would be in the region of £400,000. This figure will vary if premises apply to reduce their operating hours. The Council is able to deduct the costs of applying and collecting the levy and it is estimated that this will be in the region of £50,000.
- 3.27 Data has been sourced from the Metropolitan Police in relation to crime statistics. Appendix Four provides details of recorded crime data from 14/15 and this has been established from incidents linked from the use of alcohol and licensed premises against time period after midnight. The graph demonstrates that the peak of crime incidents, within the potential levy period, occurs from 00:00 to 00:30 (195 incidents). Appendix Five a – f plots the anti-social behaviour complaints between 2014/15 relating to licensed premises, and the hourly terminal period of the licence. Appendix Five e and f have relatively low levels of anti-social behaviour complaints and so have not been 'hot spotted'. Appendix Six details the crime numbers and types of recorded crime that the incidents relate to.

- 3.28 Assuming the LNL commenced at midnight, approximately 350 licences could be affected, pending applications for minor variations, the exemptions detailed and licence holders joining the Best Bar None scheme.
- 3.29 It would be proposed that no further exemptions are granted from the levy, unless a good business case is put forward by affected groups during the consultation.
- 3.30 It is anticipated that through the Community Safety Partnership the levy will be spent on addressing the following topics:
- Reduction or prevention of crime and disorder
 - Promotion of public safety
 - Reduction of prevention of public nuisance
 - Cleaning of streets or public spaces
- 3.31 Ideally the Council would work through the Community Safety Partnership to appoint 'Night-time economy enforcement officers'. The licensing authorities' proportion of the levy could support the funding the Best Bar None scheme (public safety) and night-time enforcement Officers to increase the percentage of time spent by the licensing team ensuring licensed premises adhere to legislative requirements, particularly where they have a direct effect on crime and disorder.
- 3.32 It would be anticipated that the Night-time enforcement Officers would work with licensed premises to assist with the prevention of street urination, selling to drunks, rowdy and nuisance behaviour, enforcement of licence conditions, supporting and leading operations to target crime and disorder, providing additional support to prevent street drinking and identifying littering hot spots, graffiti removal and cleaning.

Considerations

- 3.33 There would be direct implications on the late night premises, with the licence fee increasing from the current annual fee by the following amounts:

Band	A	B	C	D	D Multiplier	E	E Multiplier
% increase	299%	404%	399%	303%	303%	235%	233%
Increase in fee £	299	768	1259	1365	2730	1493	4440

- 3.34 There are potential operational and efficiency benefits for the local community extending to the Ambulance Service, local accident and emergency provision in hospitals, the Courts and wider justice system and the Local Economy resulting from a more effectively managed night time economy brought about by the

additional resource generated by the scheme. Accepting that these may well be nullified by the ongoing public sector austerity cuts the potential for wider indirect benefits of such a scheme should not be underestimated and could in a modest way help offset some of the negative impact of public sector budget cuts in these areas.

- 3.35 The legislation dictates how a levy is to be introduced, requirements for consultation and notices to be displayed at the appropriate time. Thereafter, on an annual basis, a licensing authority must publish before the beginning of the year a statement of its estimate of the amount of deductions permitted under regulation to be made in respect of the year. At the end of the year, a statement of the net amount of levy payments for the year showing actual deductions will need to be published.
- 3.36 The estimated proportion of the net levy must be paid to the Metropolitan Police at the start of the levy year.
- 3.37 As the levy does not apply to Temporary Event Notifications, it is possible that licence holders will apply for (TENS), rather than pay the additional charge for the levy. This potentially reduces the regulatory control Licensing Officers would have over the premises as premises licence conditions are not automatically transferred to the TENS. Under this regime a premises can have 12 events or 21 days-worth of TENS within a rolling twelve months, involving less than 500 persons.
- 3.38 The Council is not committed to adopting the Late Night Levy after undertaking a consultation. However, if it does it would have to provide clear justified reasons why it feels that a levy is required. Any decision of this nature undertaken by the Council is open for Judicial Review. The recorded crime data would support the justification for the levy.
- 3.39 If after consultation, a licensing scheme is adopted, there is likely to be a request from businesses to vary their licences so they will not come within the scope of the levy, resources would need to be allocated to deal with these additional requests. A draft consultative document is detailed in Appendix Seven.
- 3.40 An Equalities Impact Assessment has been completed and no adverse impacts are noted with regards to the consultation proposals at Appendix Eight.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1 The report request that the Committee note and consider the proposal by Cabinet to consult on the introduction of a borough wide late night levy. The introduction of a levy must be considered in relation to the costs of policing and other arrangements required that support the reduction or prevention of crime and disorder.

- 4.2 If a late night levy is introduced the fee will be set by the Government and the amount payable will be determined by the rateable value of the property where the alcohol is sold. Appendix One sets out the potential income that could be achieved from the introduction of the levy charge based on an estimation of premises affected. Appendix Two sets out the licence fee based on both the levy charge and annual fee including a multiplier applied for premises whose business is primarily or exclusively selling alcohol. It is estimated that income in the region of £400,000 could be achieved before any approved deductions are applied by the Council.
- 4.3 The licensing authority must pay at least 70 per cent of the net levy revenue to the police to be ring fenced for the purpose of directly funding activity relating to managing and improving the night time economy. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the police in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.
- 4.4 The licensing authority will be able to retain up to 30 per cent 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. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period 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 the local authority area.
- 4.5 The proposal will be revenue neutral to the Council, i.e. the cost of any additional services including the any potential reduction in the levy offered to businesses, will be met from the Levy and will not impact the General Fund.

5 LEGAL COMMENTS

- 5.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This power allows licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 5.2 The levy must cover the whole of the licensing authority’s area. However, the Council will also choose the period during which the levy applies every night,

between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

- 5.3 If the Council chooses to introduce the levy in its area, then all licensed premises which are authorised to supply alcohol in the levy period will be affected although the Council does have the discretion to offer an exemption from the levy. All other relevant premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.
- 5.4 The Council also has the discretion to offer a 30% reduction from the levy to premises that are either a member of a relevant best practice scheme or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000. This is covered in paragraphs 3.23 and 3.24 of the report.
- 5.4 With regard to the levy revenue, the police will receive at least 70% of the net levy revenue. The Council can retain up to 30% of the net levy revenue to fund other activities besides policing. There are restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The Council can deduct permitted administration, collection and enforcement costs from the gross levy revenue.
- 5.5 As to consultation, the Council should discuss the need for a levy with Mayor's Office for Policing and Crime and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document must state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue. This is covered in paragraphs 3.15 to 3.20 of the report.
- 5.6 Pursuant to Local Authorities (Functions and Responsibilities) (England) Regulations 2000, powers and functions relating to late night levy requirements cannot be the responsibility of the Executive. This is therefore a function of full Council unless it has been delegated by it. This function has not been delegated and therefore the final decision about the introduction of the levy will be for full Council.
- 5.7 When making decisions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). A proportionate level of equality analysis is required to discharge the duty and a detailed equality impact assessment is in Appendix 8.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 The Equalities Impact Assessment has been reviewed in respect of the consultation exercise and no adverse issues have been identified.

7 BEST VALUE (BV) IMPLICATIONS

7.1 The Council is fulfilling its best value duty by considering that those businesses that impose a cost on managing the night time economy, contribute financially to its regulation.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no environmental impacts with regards to this consultation.

9. RISK MANAGEMENT IMPLICATIONS

9.1 There are no identified risks with the consultation exercise.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

9.1 The Appendix to the report identifies the current anti-social behaviour statistics and crime data. As discussed in the report the proposal is currently to commence consultation on the introduction of a late night levy for licensed premises selling alcohol after midnight. If adopted at a later date, the scheme should have a downward pressure on the number of anti-social behaviour incidents and complaints as additional funding will be provided to manage the late night economy.

10. EFFICIENCY STATEMENT

10.1 There are no additional costs with the LNL as any cost in implementing the LNL can be recouped by the Council from the additional income the levy would produce, see paragraph 3.26 above.

Linked Reports, Appendices and Background Documents

Linked Report

- **None**

Appendices

Appendix One: Estimated Income of the Late Night Levy

Appendix Two: Increase in annual fee for licence holders

Appendix Three: Premise Usage showing Licensed period and Valuation Band

Appendix Four: Recorded crime data against time

Appendix Five a-f: Anti-social behaviour hot spots against licensed premises

Appendix Six: Types of recorded crime and numbers

Appendix Seven: Draft Consultative document

Appendix Eight: Equality Impact Assessment

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- **None**

Officer contact details for documents:

- **N/A**