

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 28 NOVEMBER 2012

Title of report	LICENSING AUTHORITIES WITH MORE POWERS TO DEAL WITH PROBLEMATIC PREMISES – UPDATE PAPER
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Purpose of report	To brief Licensing Committee on the use of late night levies and early morning restriction orders
Council's Priorities	Business and Jobs Safer and Healthier District
Implications:	
Financial/Staff	The legislative changes will not require additional staffing. All costs will be met through licence fees
Link to relevant CAT	Business CAT
Risk Management	Not applicable
Equalities Impact Assessment	Not applicable
Human Rights	Not applicable
Transformational Government	Not applicable
Comments of Head of Paid Service	The Report is Satisfactory
Comments of Section 151 Officer	The Report is Satisfactory

Comments of Monitoring Officer	The Report is Satisfactory
Consultees	None
Background papers	Home Office (July 2012) Dealing with the Problems of Late Night Drinking – Response to Consultation Police Reform & Social Responsibility Act 2011 Licensing Committee Report – September 2012 – Licensing Authority Powers to Deal with Problematic Premises
Recommendations	THAT LICENSING COMMITTEE NOTE THE CHANGES TO ALCOHOL LICENSING LAW

1.0 BACKGROUND

- 1.1 The government set a clear commitment to overhaul alcohol licensing to tackle the crime and disorder caused by alcohol and the resultant health and social harms, and to rebalance the Licensing Act 2003 in favour of local communities.
- 1.2 Proposals for change were taken forward in the Police Reform and Social Responsibility Bill which received royal assent on 15 September 2011 and is now the Police Reform and Social Responsibility Act 2011.
- 1.3 A report was brought to the September meeting of the Licensing Committee detailing the legislative changes introduced in April 2012 and a brief overview of further changes anticipated on 30 October 2012. Further detail regarding the use of early morning restriction orders and late night levies has now been published.

2.0 INTRODUCTION OF A LATE NIGHT LEVY

- 2.1 What is it?
The late night levy is a new power for licensing authorities to introduce a charge for all premises in the local authority area that are authorised to sell alcohol between midnight and 6am. The hours must begin at or after midnight and end at or before 6am. The levy applies to the whole area, it cannot be imposed on part of the District.
- 2.2 Rationale
The provision for the levy fulfils a commitment by the Government to permit local councils to charge more for late night licences to pay for additional policing. The Government does not believe it is fair to expect local communities and taxpayers to bear the full brunt of the costs that the late night economy causes in their area. The charge allows licensing authorities to require those businesses that benefit from the existence of a late night economy in their area to contribute to some of the costs that it causes.
- 2.3 The Government anticipates a cost to business of £18M p.a. The Government expects businesses to pass on these costs to customers, who will benefit from a safer late night economy. The Government believes that smaller or more rural local authorities may not consider that they will raise enough net revenue to make it worthwhile. The Government

estimates that at most 94 (approximately 25%) of licensing authorities would raise enough from the levy to make it worthwhile.

2.4 Process for Introduction

The option to implement the levy will be left entirely at the discretion of the licensing authority, which will make the decision based on the situation in its local area.

2.5 Exempt late night authorisations

Some categories of premises may be subject to reductions in their levy or be exempt from the levy entirely. Each licensing authority must agree its list of exemptions. The following is a list of permitted exemptions:

- Premises with overnight accommodation, where condition restricts sale of alcohol to residents only;
- Theatres and cinemas;
- Bingo halls licensed under Gambling Act 2005;
- Community Amateur Sports Clubs with relief from business rates under Corporation Tax Act 2010;
- Community premises;
- Country village pubs designated for rural rate relief in Local Government Finance Act 1988;
- Business Improvement Districts in which premises are already making a financial contribution towards initiatives that tackle crime and disorder;
- Premises which only have late night authorisation on New Year's Eve.

2.6 Each licensing authority must agree which businesses are eligible to a discount. Permitted reductions include businesses which take part in a business-led best practice scheme that has a focus on reducing late night crime and disorder e.g. Best Bar None, Purple Flag, Pubwatch. Entitled businesses will receive a 30% discount.

2.7 Collecting the levy

If a local authority decides to introduce a levy it will be collected annually and the revenue split between the licensing authority and the police. The licensing authority can retain up to 30% of the net levy revenue to fund other activities to tackle alcohol-related crime and disorder

2.8 The police are not statutorily required to apply the funds to the supply of policing during the late night supply period, or to provide extra policing. It is suggested local authorities consider producing a legally binding service level agreement with the police specifying how the additional revenue will be spent

2.9 Levy Amount - Anticipated level of income

The following table details the estimated level of income based on a late night supply period of 2am to 6am:

Rateable Band	Amount (£)	Number of Premises	Income
A	299	0	0
B	768	6	4608
C	1,259	1	1259
D	1,365 2,730 if exclusively or primarily for supply of alcohol for consumption on the premises	0	
E	1,493 4,493 if exclusively or primarily for supply of alcohol for consumption on the premises	2	2986
Total			£8853

2.10 Process for Introducing a Levy

2.10.1 In making a decision to introduce a levy, the licensing authority must consider

- The costs of policing and other arrangements for the reduction of crime and disorder in connection with the supply of alcohol between midnight and 6am
- Having regard to these costs, the desirability of raising revenue

2.10.2 The licensing authority must consult the police, the Chief Officer of Police and holders of late night authorisations. It is considered best practice to also consult the wider public. A public notice must also be published. Having taken into account consultee comments, if the authority decides to introduce the levy a further public notice of its decision must be placed. A decision to introduce a levy would be a decision to be made by Council.

2.11 Application of funds

2.11.1 The Authority has to pay the specified proportion of the levy (minimum 70%) to the Police within 28 days of the end of the levy year. The licensing authority is required to spend the net balance on arrangements for:

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

2.11.2 Examples might include late night street wardens, taxi marshals and CCTV. The Authority is not obliged to spend the money in the same year. A list of initiatives will be developed detailing how the additional revenue is to be spent.

3.0 INCREASING THE FLEXIBILITY OF EARLY MORNING RESTRICTION ORDERS (EMRO)

3.1 Previously an EMRO allowed a licensing authority to restrict sales of alcohol in the whole or part of their district for any specified period between 3am and 6am.

3.2 EMROs will now allow licensing authorities to restrict sales of alcohol in the whole or a part of their district for any specified period between 12am and 6am **if they consider this to be appropriate for the promotion of the objectives**. The specified time can be different for different days.

3.3 Examples:

Midnight to 6am on Sunday to Thursday nights

1am to 6am every night in a defined residential area, or the whole District.

Midnight to 6am on Sunday to Thursday, 3am to 6am on Friday and Saturday.

3.4 Evidence Required

A licensing authority must provide evidence to support its decision. Premises will then be able to make representations to prove that they do not, in fact, undermine the licensing objectives. EMROs are not a blanket regulation. They are a focussed tool for licensing authorities. The following may be a source of information for Authorities:

Local crime and disorder statistics, including hotspot data

Hospital statistics

Environmental Health data

Local consultation / observation

Resident questionnaires

3.4.1 Generally an EMRO should not be seen as a control measure of first resort. An Authority must consider whether the EMRO is genuinely appropriate / proportionate / necessary. Alternative methods of control include:

- Cumulative Impact Policies
- Promotion of Voluntary Schemes
- Lower the threshold for a review

3.5 Process for introducing an EMRO

3.5.1 The function of making, varying or revoking an EMRO is not a Licensing Committee function. The function will be exercised by Council.

3.5.2 Should it be deemed necessary to consider the introduction of an EMRO, a report will be submitted to Licensing Committee and Council detailing the evidence and seeking approval to consult on an EMRO. In all probability any supporting evidence will have resulted from officers having liaised with the police.

3.5.3 Should a premises caught by the proposal submit a representation, the Authority must hold a hearing.

4.0 INTERPLAY BETWEEN LEVY AND EMRO

4.1 Authorities are advised to consider levy and EMRO in the round.

- 4.2 It may seem unjust to run a levy or an EMRO during hours that are not problematic. E.g. If crime and disorder is an issue from 2am, why should bars which close at 1am pay a levy?
- 4.3 In practice a levy and an EMRO from the same given hour is unfeasible, as bars may pull back their hours so as to avoid paying
- 4.4 If an Authority wants to run both levy and EMRO it would have to:
Implement the levy to pay for extra control from e.g. 2am
Operate an EMRO from e.g. 3.30am as a method of ceasing the supply of alcohol.
- 4.5 If an authority's town centre has a mixed use area within it, it might:
- Collect a levy for midnight onwards,
 - Apply the EMRO for midnight onwards but only to the area with a high proportion of residential uses

5.0 NEXT STEPS

- 5.1 Once the new provisions are in place (after 30 October 2012) a meeting will take place with the police to discuss the need for either a levy or EMRO.
- 5.2 Following this meeting with the police the Council will need to determine its appetite for introducing a levy or an EMRO. A report will be taken via the Councils Corporate Leadership Team, Portfolio Holders and ultimately via Licensing Committee and Council to determine our approach.