

DECISION-MAKER:	CABINET		
SUBJECT:	LATE NIGHT LEVY - CONSULTATION		
DATE OF DECISION:	15 APRIL 2014		
REPORT OF:	CABINET MEMBER FOR COMMUNITIES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	
Director	Name:	Mark Heath	Tel: 023 8083 2371
	E-mail:	Mark.heath@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

A motion was passed at Council on 20th November 2013 delegating authority to the Head of Legal and Democratic Services to commence the consultation process on a proposed new late night levy. Subsequent discussions with both the Chief Superintendent of Police for the City and the Police and Crime Commissioner (PCC), have taken place and Cabinet is now asked to consider the design of the levy where the Council has options and the consultation arrangements. This document will form the basis of statutory consultation.

This report examines the statutory procedures and consultation process prior to the formal consideration of introducing a Late Night Levy on premises authorised to sell or supply alcohol between midnight and 6 am. It examines the process and consequences of doing so and explains the options available to the council to design the levy as a basis for consultation in partnership with the Hampshire Police and Crime Commissioner.

RECOMMENDATIONS:

- (i) To consider and agree the proposals for the levy design for consultation purposes as set out in this report and as detailed below:
 - (a) The late-night supply period to run from one minute past midnight to 6am
 - (b) Exemptions from the levy will include:
 - Premises with overnight accommodation (but not where bars are open to the public/non residents)
 - Theatres and cinemas
 - Bingo halls
 - Community Amateur Sports Clubs
 - Community Premises

- Premises only open on New Year's Eve
 - (c) Exemptions from the levy will **not** include:
 - Country Village Pubs
 - Business Improvement Districts
 - (d) Reductions of the levy will not be granted for Council accredited business-led best practice schemes
 - (e) Reductions of the levy will not be granted for small businesses
- (ii) To consult on:
 - (a) the need for a Levy Board to advise on levy spend/priorities
 - (b) a range of activities on which to spend the levy which are or may be provided to tackle the late night alcohol related crime and disorder, and community safety services connected to the management of the night time economy, including:
 - Night time economy management
 - Taxi marshalling
 - ICE bus
 - CCTV improvements
 - Street pastors
 - Street cleaning
 - Enforcement initiatives
 - Personal safety initiatives
 - Providing temporary public conveniences
- (v) To delegate the final format of the consultation document to the Head of Legal & Democratic Services after consultation with the Cabinet Member for Communities.
- (vi) To note the arrangements for the operation of a late night levy with a target date for implementation of 1st February 2015

REASONS FOR REPORT RECOMMENDATIONS

1. The provision for the late night levy has been introduced by the Government to allow authorities to require those businesses that benefit from the existence of a late night economy in their area to contribute towards the costs that it causes.
2. While the late night economy provides significant economic benefits to the City, there are consequential costs of crime and disorder, anti-social behaviour, and costs that fall on the police, the Council and other partners.
3. Legislation has been introduced as it is not considered:

“... fair to expect local communities and taxpayers to bear the full brunt

of the costs that the late night economy causes in their area. Therefore, this 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.”

4. The rationale is not to restrict the extent of the late night economy but to ensure a contribution towards the direct and consequential costs.
5. The proposal at this stage is to start the process to introduce the levy, to gather additional information as to the likely costs and consequences, to consult widely on the proposals so that full Council can be fully informed and able to make a final decision.
6. The Council’s Statement Of Licensing Policy predates the Police Reform and Social Responsibility Act 2011 which introduced the levy and therefore no specific mention is made of it. However, throughout the document reference is made to crime and disorder, the night time economy and the need to balance the latter and against the former. Government initiatives are referred to and the policy is, therefore, consistent with the desirability of consulting on the need for a levy
7. By law the Council is required to carry out its various licensing functions so as to promote the four licensing objectives, which have equal importance:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
8. Introduction of the levy can assist in the achievement of this policy and objectives by providing additional funds. The outcome of the consultation and further research will show if there are likely to be any detrimental impact which can be considered before the final decision will be made.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

9. None, Council has already passed a motion to move to the consultation stage.

DETAIL (Including consultation carried out)

10. The attached draft consultation document provides the detail to support the desirability of implementing the levy, detailed crime and disorder data and importantly the options that the Council has in relation to the design of the levy. Two significant options regarding reductions and exemptions from the levy relate to the reduction of the levy for Council accredited business-led best practice schemes and reductions of the levy for small businesses.

Reductions and exemptions relating to the reduction of the levy for Council accredited business-led best practice schemes.

11. Currently there is an arrangement called “Licensing Link” led by the trade which comprises members predominantly based in the City Centre. It provides a radio scheme and webpage for the sharing of information such as details of persons banned on their scheme, the Red Card Scheme.

12. The view is that Licensing Link is not currently robust enough and lacks commitment by all participants to fall within the meaning of a “best practice” business led scheme that warrants a reduction in the levy. It is not considered this current scheme is of sufficient standing, has adequate commitment from all members and provides the necessary outcomes to warrant a financial reduction. However, it is intended to consult stakeholders as regards any possible reductions from the levy for businesses who participate in a redesigned, and crucially, business-led best practice scheme possibly based on the core criteria of the Police’s Diamond scheme which seeks to set a high standard in management practices within licensed premises. The police scheme is not finalised and awaits approval.
13. It is proposed to consult on this issue particularly in respect of any future schemes designed to provide a clear rationale as to why the scheme’s objectives, participation and activities will, or are likely to, result in a reduction of alcohol related crime and disorder. Initial discussions with the trade as regards this issue have been very positive and any future initiatives are intended to address issues such as irresponsible drinks promotions. In principle a reduction for a robust scheme is considered by officers to be appropriate.

Reductions of the levy for small businesses

14. The Council may allow a reduction:-
“in relation to premises, at which the authorisation permits the supply of alcohol for consumption on the premises only, which are a hereditament in respect of which—
 - (i) *the ratepayer is subject to a non-domestic rate calculated in accordance with section 43(4A) of the Local Government Finance Act 1988, and*
 - (ii) *the rateable value is not more than £12,000.”*
15. These are premises that already receive Small Business Rate Relief.
16. The Council proposes **NOT TO GRANT** a reduction for these premises. These premises already receive business rates relief to assist in their viability. However, if they operate in the late night supply period, there is no reason to suggest that they are less likely than similar businesses to contribute to the detrimental effects of the NTE between midnight and 6am. They will in any event be subject only to the lower bands of the LNL, because of their low rateable value.

Discussions with the Police and Crime Commissioner (PCC) and Chief Officer of Police

17. Initial informal discussions have taken place in accordance with paragraph 1.11 of the Government’s Guidance. The response from the PCC is attached at Appendix A and data from the police included in this report. More detailed submissions may be submitted during any formal consultation. Both support the levy principle.

What impact will this proposal have?

18. At a time where public authorities are subject to stringent budget restrictions

and are finding it extremely difficult to continue to support current initiatives as above the levy will provide funds for the police and Council to address the costs of crime anti-social behaviour caused and related matters by the late night economy. The outcome of the consultation will help to inform consideration of the impact. The regular monitoring and review process will also assess the impact. Hampshire's Police and Crime Commissioner has confirmed that the police contribution towards initiatives such as the taxi marshals will no longer be supported financially due to severe budget cuts. This is the same position as all the other public partners who currently contribute. Over the past few years to supplement this the Council has encouraged contributions from the licensing trade to help pay for initiatives which directly benefit them. However for a variety of reasons, not least the recession, such contributions have significantly diminished.

19. It would therefore appear to be fairly clear that currently most of the NTE initiatives that require funding will cease if the levy is not introduced. It is considered that this would have a significant detrimental effect on the city and be a retrograde step after the hard work that has been put in by partners and the trade themselves over the past few years that culminated in the City being granted the Tilley Award in 2011.

How will the levy be spent?

20. Within the Act there are set parameters to what the levy can be spent on and by whom. Once the Council's set up and annual administration costs have been paid for at least 70% of the net sum raised must be passed to the PCC who has full discretion over where the sums are spent. This is naturally a concern to the Council as it is only fair that the full sum raised is only spent on the initiatives and other directly related or similar matters in the City. However, the PCC has confirmed that this is his intention. If the levy is ultimately adopted this will be put on a more formal footing.
21. If the levy is adopted it is recommended that a "Levy Panel" comprising the Council, statutory partners, the PCC and the trade should be put in place to make recommendations to the PCC and Council on how the levy should be spent. The panel will not be able to veto spending but is seen as a very useful way of ensuring the voices of all interested parties are heard. This will form part of the consultation
22. The sum that the Council retains will likewise be committed to the initiatives referred to in recommendation (ii) above.

How will success be measured?

23. Financial success will be shown if the net income produced by the levy after deducting the Council's expenses results in a sum that enables the police and the Council to develop and support initiatives which improve the late night experience for residents and visitors.
24. This will maintain Southampton's safe night time economy and will assist in the target of further reducing the amount of crime, disorder and anti-social behaviour linked to the late night economy. Confidence in Southampton as a safe night out will be improved. This will be measured by crime, anti-social behaviour and confidence statistics.

What is the timetable for implementation?

25. This is the current provisional Timetable:

January 2014	Consultation with Police and Crime Commissioner and Chief Constable
15 th April 2014	Cabinet Report and final design of consultation
25 th April 2014	Statutory Consultation Starts
30 th July 2014	End of Statutory Consultation
Summer 2014	Consideration of the outcome of consultation and finalisation of the proposals
Early September 2014	Report to the Licensing Committee
16 th September 2014	Report to Full Council
Autumn/Winter 2014	Determination of Minor Amendments to Vary Hours
1 st February 2015	Target date for implementation of Start First Levy Year
2017	Review

What are the key risks and how are they being managed?

26. The legal risks have already been identified in sections 38 to 41. They will be further addressed in future reports.
27. The financial risks and resource implications are identified in sections 29 to 36. In addition, if the Council ultimately decides not to introduce the levy, the costs of the process will be found from within existing budgets.
28. There is a risk that there will be an adverse effect on the late night economy within the City, with consequential effects on employment and support businesses (e.g. hotels, taxis, private hire, and takeaways). Given the cost this is thought unlikely and whilst early days has not been found to be the case in Newcastle Upon Tyne being the first City to adopt the levy late last year. The opposite to this is the potential benefit to residents and businesses from the retention of the current initiatives which have led to a reduction in crime and disorder and anti-social behaviour and the ability to reduce police and Council resources needed to address the consequences of the late night economy. It is therefore important the levy spend is properly considered and directed to address identified issues. The consultation will further inform the assessment of this risk and the key will be future monitoring.

RESOURCE IMPLICATIONS

Revenue

29. The amount of the levy is fixed by regulations and depends on the rateable value of the premises.

Rateable Value	Annual Levy
No rateable value to £4,300	£299
£4,301 to £33,000	£768
£33,001 to £87,000	£1,259
£87,001 to £125,000	£1,365
£125,001 and above	£1,493

30. Where premises within Bands D or E primarily or exclusively sell alcohol for consumption on the premises, a multiplier is applied to ensure that larger clubs and bars make a higher contribution.

x 2 £87,001 to £125,000	£2,730
x 3 £125,001 and above	£4,440

Premises with no rateable value fall within Band A

Premises that are in the course of construction fall within Band C

31. If all existing premises authorised to sell or supply alcohol between midnight and 6 am are subject to the levy, the estimate of the sum that the levy will produce is approximately £240,000 per year.

32. This sum will be lower if the levy night supply period is for a lesser time (so affecting fewer premises), if exemptions or reductions are agreed, and if premises choose to make free applications to reduce their authorised hours to avoid the levy. It is estimated the net sum in these cases will be approximately £100,000 per year before any other reductions are taken into account.

33. There will be a resource implication in respect of officer time spent on both the consultation process and ongoing administration. Officers have been diverted to carry out this Council priority which has had a service impact on some Licensing matters. After initial set up the ongoing administration once the levy come into force will hopefully be relatively minimal. In addition any adopted Business led best practice scheme will require officer time to complete assessments and enforcement. This may be linked to and future Best Bar None Awards but will require further work by officers to explore this avenue. The attraction of Best Bar None is some of the funding is provided by the Alcohol Industry towards the running of the award.

34. During the initial period of introduction there is an ability for any premises affected by the levy to seek a free variation to their licence to reduce the hours that alcohol is sold, As an estimate it is possible some 100+ premises may seek to do this but it will be a purely business led decision. This additional workload will have resource implications or cause other matters to receive less priority. The one cost of this, based on the above figure is

estimated to be £8,900 and will need to be offset against the levy income received in year 1. It should be noted that save for the gross levy figure all other figures are estimated and to an extent unquantifiable as businesses will decide what is best for them.

35. The level of estimated gross income per annum from the introduction of a late night levy will be determined by the regulations but will also be affected by the level of exemptions or reductions agreed.
36. The annual costs incurred by the Council in administering the levy will be deducted from the gross income and detailed work is underway to assess the estimated level of these ongoing costs.
37. The potential ongoing financial impact of a late night levy can be summarised as follows:

	Maximum	Minimum
	£	£
Gross income	240,000	100,000
Deduct estimated annual admin fee	15,000	15,000
Net income available for spend priorities	225,000	85,000
Assume PCC 70%	158,000	60,000
Assume SCC 30%	68,000	25,000

The financial implications arising from the introduction of a levy will need to be carefully considered in detail prior to any final decision to proceed. Clarity will also be required on the financial administration arrangements for both the collection and application of the levy income to ensure that any risks to the Council are minimised e.g. if the actual level of income collected in a given financial year is lower than the estimate on which spending decisions have been based and put in place.

Property/Other

38. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

39. Police Reform and Social Responsibility Act 2011.

Other Legal Implications:

40. The introduction of the levy is a statutory process which needs to be followed exactly. Failure to do so could result in a legal challenge. Since the levy is a type of taxation, the courts are likely to look at the process in greater detail, were a challenge to be made.
41. As well as ensuring that the proper procedure is followed (including proper consultation), the Council must take into account all material considerations and disregard all immaterial considerations before making the final decision. The key material considerations are those set out in the 2011 Act which are referred to above. These are not exhaustive. This issue will be addressed further in the final report to Council.
42. The Constitutional position is that the final decision needs to be made by full Council. However, since it relates to a licensing matter, it is recommended full Council should have a report from the Licensing Committee.

POLICY FRAMEWORK IMPLICATIONS

43. None. The Statement of Licensing Policy refers at paragraph 3.3 to the Licensing Authority seeking to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act. The proposal is consistent with this.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	All
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SUPPORTING DOCUMENTATION

Appendices

1.	Draft Late Night Levy Consultation document
2.	Letter of support

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	<i>Guidance on the Late Night Levy</i> , December 2012	Click here
2.	Southampton City Council – Statement of Licensing Policy	Click here