

REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT LICENSING COMMITTEE

REPORT OF: Mark Jones- Service Manager Community Safety and Licensing

REPORT NO: CSL029

DATE: 10th May 2013

TITLE:	Police Reform and Social Responsibility Act 2011 The Late Night Levy
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr John Smith Healthy Environment
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INITIAL IMPACT ANALYSIS: Equality and Diversity	Not applicable. Please see comment in point 7
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk
BACKGROUND PAPERS	Licensing Act 2003 Police Reform and Social Responsibility Act 2011 Home Office Guidance on Early Morning Restriction Orders and Late Night Levy Home Office Amended Section 182 Guidance (Dec 2012)

1. RECOMMENDATIONS

1.1 It is recommended that the committee note the legislative changes but do not introduce a late night levy at this time.

2. PURPOSE OF THE REPORT

2.2 To update Members on a recent change that the Police and Social Responsibility Act 2011 (The Act) made to the Licensing Act 2003. Specifically the Late Night Levy.

3. DETAILS OF REPORT

Background

3.1 The Police and Social Responsibility Act 2011 (The Act) made amendments to the Licensing Act 2003. One of the main areas addressed in the Act was the control of late night drinking and included a number of proposals to provide local licensing authorities with the tools to restrict opening and closing times and to collect a Late Night Levy (the Levy) to pay towards extra enforcement and other costs associated with the late opening premises.

3.2 The Levy will allow licensing authorities to raise a contribution to the enforcement costs that the night time economy generates for the police and Licensing Authorities by surcharging the late night supply of alcohol. If a Licensing Authority chooses to introduce a LNL in its area, all licensed ('on' and 'off' sales) premises which are authorised to supply alcohol in the Late Night Supply Period (LNSP) will be affected.

3.3 The Levy would be placed on businesses that have a Premises Licence permitting the supply of alcohol between 12 midnight and 6am. It is a local discretionary power that licensing authorities can choose to exercise however, it must cover the whole of the Licensing Authority's area. The Licensing Authority can also choose the hours within the LNSP during which the levy applies and decide what exemptions and reductions should apply from a list set out in regulations. The late-night supply period cannot apply on different days or times.

3.4 Premises that do not wish to operate in the LNSP will be able to apply for a minor variation, free of charge, before any levy is introduced to alter their hours and therefore avoid the levy. It is anticipated that the majority of premises that only open for a few of the Bank Holidays but none the less would have to pay the Levy, would utilise a minor variation (free). This would incur non chargeable work for the licensing team and significantly reduce the projected income.

Exemptions

3.5 Licensing Authorities will have the discretion to offer an exemption from the levy to the following categories of premises and schemes. Premises will have to meet specific criteria to be considered for these exemptions.

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 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.

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.

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.

3.6 There will also be discretion to offer a 30% reduction to those premises that are either a member of a recognised best practice scheme (e.g. Purple Flag, Pub Watch or Club Watch, etc) are located within a Business Improvement District or are in receipt of Small Business Rate relief.

3.7 The amount of the late night levy has been set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee.

Premises Information

Premises Rateable Band	Time Premises Trade After On At Least					
	One Occasion					
	Midnight	1am	2am	3am	4am	5am
A (£299)	23	2	0	0	0	0
B (£768)	95	24	16	4	1	1
C (£1,259)	17	9	5	2	0	0
D (£1,365)	1	1	1	0	0	0
E (£1,493)	7	4	0	0	0	2

A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises. This will ensure that larger clubs and bars make a higher contribution towards the levy. There are no D or E rated properties in South Kesteven that would accrue the multiplier.

3.8 Local Authorities are able to deduct any administration fee associated with its collection. The Police and Crime Commissioner (PCC) must then receive at least 70% of the net levy revenue. The Licensing Authority can retain the net balance which must

be used to fund specific activities that tackle alcohol related crime and disorder in the LNSP. There are no constraints on the use the Police and Crime Commissioner can make of the revenue, however the guidance issued by government recommends that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue.

Financial implications

3.9 The table below sets out the maximum potential gross income for South Kesteven, assuming that no exemptions are applied and there are no variations to hours made by premises to avoid the levy.

Summary Position

If Levy applied to premises open after:	Maximum Potential Income would be:
Midnight	£180,814
01:00	£67,758
02:00	£30,060
03:00	£10,112
04:00	£4,522
05:00	£3,754

Points for consideration

3.10 The levy if adopted applies across the whole of the district. There are no provisions to apply it to a smaller geographical area such as a town centre. All premises selling alcohol within the hours to which the levy applies will be included unless they are specifically exempted. This means that the levy will not target the high risk or premises giving rise to the most problems.

3.11 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.

3.12 The Council’s Service Manager for Licensing and Community Safety has discussed the implications of the Late Night Levy with the Police Commander for South Kesteven. As a result of that meeting it is clear that Lincolnshire Police is reviewing how alcohol- related offending is managed across the County. The Chief Inspector is keen to ensure that South Kesteven receives the best possible policing which balances peoples enjoyment of the night time economy with tackling crime and disorder effectively. The Chief Inspector does not believe that it is necessary to implement the late night levy within the district at this time however, he is mindful that the situation could change in the future. He also points out that all crime within South Kesteven is down by 16% compared with this time last year and that specifically violent crime with injury is down by 26%. This reduction has been achieved by

adopting a robust approach to policing the night time economy, dealing with incidents of public order before they get out of control.

3.13 The decision to implement the levy is not time-bound, the Licensing Authority can at any time decide to consult on its implementation.

3.14 The Late Night Levy has been met with a mixed response from Local Authorities depending upon the scale of the night time economy crime and disorder issues they are experiencing. It is important to note that many of the premises included in the levy do not currently have any impact on crime and disorder in the LNSP, nevertheless they will still be subject to the charge. It is a fine balance between creating a thriving and safe night time economy by using the extra funds created by the LNL whilst also taking into account the current financial pressures being experienced by the licensed trade.

3.15 Representatives from the leisure and licensing trade are commenting that this sector of business is finding the current trading environment very difficult and that the levy would be another burden. Undoubtedly, the levy would add to licensed premises outgoings, in many cases to cover only a few hours a week. If a premise chose to vary their licence, by reducing the licensed hours, this could result in loss of trade, leading to less staff being required and loss of trade to the taxi companies and late night refreshment premises. This in turn may lead to such premises surrendering their licence for late night refreshment, resulting in a loss of income for the council. The same could be said of taxis, if there are no customers to service, they might move to other authorities where there is more trade resulting in a further loss of income for the council.

3.16 The flexibility included within the current licensing regime does allow for premises to close at a time which favours their business. This also allows for a gradual dispersal over a period of time of late night drinkers. The introduction of a levy might result in many premises closing at the same time (to avoid going into the levy period) with an increase in numbers of late night drinkers being on the streets.

3.17 There will be a significant amount of officer time involved in administering the Late Night Levy, these costs can be recovered from the revenue generated. There will also be costs associated with the consultation, making and advertising the necessary orders. It is too early to quantify these costs with any accuracy.

3.18 Should the Late Night Levy be implemented in the area, holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. The cost of processing free variations will be a deductible expense from the levy receipts in the first year in which the levy is introduced by the licensing authority.

3.19 If the Licensing Authority decides to implement the levy, it must formally consult the Police and Crime Commissioner (PCC), the police, licence holders and others about its decision. The consultation should ask whether the Licensing Authority needs to apply any exemptions or discounts to the levy and how it will apportion the net levy revenue between the police and licensing authority. However, the Licensing Authority will have the final decision in all of these areas and the levy may be introduced or amended at any time or date. Nevertheless, if amendments are made the full consultation exercise must be repeated.

4. OTHER OPTIONS CONSIDERED

4.1 No other options considered

5. RESOURCE IMPLICATIONS

5.1 Should the council decide to implement the levy within the District the resource implications for the licensing department will be significant. It is anticipated that a growth bid will need to be approved in order to free up resources to consult, introduce, administer and maintain the levy within the District.

6. RISK AND MITIGATION

6.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Judicial review may be sought should the introduction of the levy not be justified.	Introduction of the levy must be justified and appropriate for the district, this must be evidenced.

7. ISSUES ARISING FROM IMPACT ANALYSIS

7.1 No issues of inequality will arise from this report or from any outcome of its contents

8. CRIME AND DISORDER IMPLICATIONS

8.1 Contained within the report

9. COMMENTS OF FINANCIAL SERVICES

9.1 Whilst the introduction of the levy could generate additional income to the Council there would also be associated costs incurred including staffing which would need to be offset against the income received. Alongside this 70% of the income generated will have to be paid over to the Police which would further negate any potential income stream. The 2013/14 budget does not take into account this income or cost and therefore if the committee support the recommendation there is no budgetary impact.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 The Police Reform and Social Responsibility Act 2011 introduced a discretionary power for Licensing Authorities to introduce a late night levy. The late night levy would require licence holders to pay the licensing authority the costs associated with the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

10.2 There is a balance to be struck between the benefit of a late night levy and the burden of the cost on premises licence holders. The financial impact on the Council should also be considered. Lincolnshire Police do not consider it necessary to

introduce a levy at this time but the decision to introduce a levy can be reviewed if circumstances change.

10.3 If a late night levy is to be introduced, licensing authorities will (via prescribed consultation) then need to 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 income.

11. COMMENTS OF OTHER RELEVANT SERVICES

11.1 None received