

**REPORT FOR DECISION AND
INFORMATION**

FOR: REGULATORY AND LICENSING COMMITTEE

Date: 28th November 2012

Agenda Item: 5

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**JOINT SUBMISSION BY TIM MATTHEWS – ENVIRONMENTAL HEALTH MANAGER
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**THE POLICE REFORM & SOCIAL RESPONSIBILITY ACT 2011 AND
LICENSING ACT 2003**

1. PURPOSE OF REPORT

- 1.1 Members to consider the implications of the changes to the Licensing Act 2003 (2003 Act), introduced by the Police Reform & Social Responsibility Act 2011 relating to the late night levy.

2. BACKGROUND

- 2.1 A Government consultation entitled “Rebalancing the Licensing Act 2003” was undertaken in 2010. Members have received two previous reports on the changes to the Licensing Act 2003 in 23rd September 2010 and more recently on 17th May 2012.
- 2.2 The most recent report advised on the changes to the Licensing Act 2003 enabled through the Police Reform and Social Responsibility Act 2011 together with proposals to relax licensing hours to celebrate the Queens Diamond Jubilee in June 2012.
- 2.3 In summary the amendments reported related to:
- Temporary Event Notices
 - List of Responsible Authorities
 - Removal of definition of “interested party” and the “vicinity” test
 - Early Morning Restriction Orders
 - Fees
 - Underage sales

- Licensing Policy statements
- Alcohol Disorder Zones
- Late Night Levy

2.4 Members were advised that whilst the majority of the changes were to be implemented through new guidance issued on 25th April 2012, some proposals relating to Early Morning Alcohol Restriction Orders and the Late Night Levy would require additional complex secondary legislation and guidance and would therefore be delayed until later in the year and that revised guidance would be issued in October 2012.

3. MATTERS FOR CONSIDERATION

3.1 We have now recently received the new guidance for these matters issued on 31st October and these are detailed at

- **Appendix A** – the new statutory guidance relating to the Late Night Levy
- **Appendix B** - web link <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing> (due to size of document) for other matters.

3.2 **The Late Night Levy.**

3.3 The guidance advises that the late night levy (“the levy”) is a power, conferred on licensing authorities by provision in the Police Reform and Social Responsibility Act 2011. This enables 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.

3.4 The decision to introduce the levy **is an option** available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.

3.5 It is recommended that the decision to introduce, vary or end the requirement for the levy **is made by the full council**. Other decisions in relation to the introduction and administration of the Levy may be delegated.

3.6 The introduction of a “late night levy” is intended to cover the costs of policing and other arrangements for the reduction or prevention of crime or disorder, in connection with the sale or supply of alcohol between midnight and 06.00.

3.7 If the licensing authority decides to apply the late night levy it **must apply to the whole of the District**. The licensing authority may choose to specify time restrictions applicable to the levy and any permitted exemption categories and/or permitted reduction categories.

3.8 Not less than 70% of the levy will go to the Police to cover policing costs. The remainder will be applied in accordance with the regulations.

3.9 The decision to introduce the levy is for the licensing authority to make. However is

important to note that the advice in sec 1.5 advises the licensing authority is expected **to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area** in which it is proposed the levy will be introduced. Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.

- 3.10 In the circumstances therefore it is considered appropriate that at this time the optional but significant power is brought to your committee again following detailed consultations as suggested above.
- 3.11 **Early Morning Restriction Order (EMRO) (Paragraphs 16.1 – 16.29 in guidance)**
- 3.12 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 3.13 An EMRO can apply to the **whole or part of the licensing authority’s area**. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 3.14 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy. Members will be aware of the CIP relating to Bird Street and Market Street, Lichfield
- 3.15 EMROs would allow licensing authorities to prohibit the sale of alcohol between midnight and 06.00 from certain types of premises to be specified. The Order must be deemed appropriate to promote the licensing objectives.

4. Recommendation requested

- 4.1 Members are requested to note the contents of the report upon the additional sec 182 guidance relating to the 2003 Act and specifically the Late Night Levy and Early Morning Restriction Orders and consider the local implications resulting from them.
- 4.2 Members preliminary views are sought as to these specific additional but optional powers that may be adopted if deemed relevant and the possible need for additional reports if appropriate.
- 4.3 That a further report on the Late Night levy is submitted following consultation with the Chief Officer of Police and Police and Crime Commissioner (“PCC”) for the police area.
- 4.4 That delegated authority is granted to the Strategic Director Community Housing and Health, Strategic Director Democratic and Legal Services, Environmental Health Manager and Licensing and Electoral Services Manager in respect of matters relating to the Licensing Act 2003 and new guidance issued.

5. Financial Implications

- 5.1 The licensing service currently provided by the Council is financed by fees Licensing

Act set by the Government nationally and has not increased since they were first set in 2005. Income received under the current regime is £78,264 per annum.

- 5.2 Some of the proposals detailed will have resource implications due to the nature of these additional and optional responsibilities and powers.
- 5.3 Any additional resources required will need to be reflected in subsequent reports on these matters.

6. Strategic Plan Implications

- 6.1 Reducing disturbance and Antisocial behaviours through our powers under the Licensing Act is a key strategic action.

7. Sustainability Issues

- 7.1 Services for licensing and regulatory functions contribute to the well-being and safety of our residents and towards protecting and providing a high quality and sustainable environment for this and future generations.

8. Human Rights Issues

- 8.1 The impact of entertainment related activities and the operating of licensed premises all have Human Rights implications both in terms of nuisance and via the regulatory control of business effected through licence conditions

9. Crime and Community Safety Issues

- 9.1 Possible impact on community safety resulting from these proposals.

10. Risk Management Issues

- 10.1 None identified.

Background Documents:

Appendix A – new guidance on the Late Night Levy

Appendix B – web link <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing>