

**Wards Affected:**

*All Wards*

**REPORT PRESENTED TO LICENSING COMMITTEE – 6 MARCH 2013**

**Late Night Levy**

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**Executive Summary:**

This report will summarise the process and key issues to consider with respect to the introduction of a Late Night Levy (LNL) in Milton Keynes. A LNL allows the Local Authority to charge a prescribed fee to any late night alcohol supply venue to help offset the cost of policing the night-time economy.

The Thames Valley Police have requested that the Licensing Authority consider the introduction of a LNL between the hours of 1am to 6am.

The Committee must make a decision whether to hold a public consultation on the introduction of a levy. The decision must be based upon the cost of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am and the desirability for raising this revenue to cover the cost of policing the night-time economy.

**1. Recommendation(s)**

1.1 That the Licensing Committee propose a Late Night Levy to go to public consultation, detailing:

- (i) date on which a LNL will apply;
- (ii) the late night supply period;
- (iii) permitted exemption categories;
- (iv) permitted reduction categories;
- (v) specified proportion (split of funds between Police and Licensing Authority)

**2. Issues**

2.1 2.1 The Police Reform and Social Responsibility Act (PRSR) 2011 amends and supplements the Licensing Act 2003 with the intention of 'rebalancing' it in favour of local authorities, the police and local communities. Chapter 2 of the PRSR 2011 Act allows local 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.

It is for the Licensing Authority to decide whether a levy is implemented, however it should only do so if invited by the local police authority or holders of relevant late night authorisations (late alcohol licences).

Data has been shared with the Police with respect to potential revenue levels to be generated by such a levy.

- 2.2 The Local Police Authority has submitted a request for the Licensing Authority to consider proposing a LNL. **Annex A** details the Police request.

The Police have proposed a Late Night Supply period from 1am to 6am.

- 2.3 With the receipt of this request to consider a LNL, Members must firstly determine whether a LNL is a viable proposal for Milton Keynes. Secondly a proposed LNL must be created to undergo public consultation. The results of the consultation will be returned to the Committee to make a final decision on the LNL.

- 2.4 When making the decision to propose a levy or not, Members must consider:

- (i) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
- (ii) having regard to those costs, the desirability of raising revenue to be applied.

- 2.5 The TVP will have the opportunity to discuss the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol during the consultation process.

- 2.6 Where Members decide that a LNL is viable and that consultation on a proposed LNL will be undertaken, a notice will be served detailing the five points below:

- (i) Date on which a LNL will apply;
- (ii) the late night supply period;
- (iii) permitted exemption categories;
- (iv) permitted reduction categories;
- (v) specified proportion (split of funds between Police and Licensing Authority)

The public consultation will request comment on the five points above.

Consultees will include the Local Police Authority, the Police and Crime Commissioner and all relevant late night venue licence holders. Results of the consultation will be provided at a future Committee to enable a decision as to whether to implement a LNL.

- 2.7 The PCC have not formally provided comment on this TVP request to consider a LNL, however they will be one of the formal consultees.

2.8 The Licensing Authority may decide to permit fee exemptions to certain premises. These include hotels, theatres and cinemas, bingo halls, amateur sports clubs, community premises (village/community hall), country pubs and any premises only opening into the late night supply period on New Years Eve.

2.9 Reductions of 30% to the levy fee may be applied to premises that are registered and active members of a scheme that promotes the licensing objectives, such as Safer Socialising (if implemented), or those premises in receipt of Small Business Rate Relief and a Non Domestic Rateable Value of under £12,000.

The Police have suggested that a 30% reduction is provided to any premises operating successfully under the Safer Socialising Award, recently introduced in Milton Keynes.

Safer Socialising Award is a suitable scheme to have the reduction applied to as membership to this award will be monitored and performance related.

Best Bar None and the Purple Flag scheme are not in operation in Milton Keynes, though could be incorporated into the reduction if introduced at a later stage.

2.10 A minimum of 70% of the net income generated by a levy will be paid to the Police. The use of these fees by the police is not ring fenced or accountable however it is expected to be used to tackle late night alcohol related crime and disorder.

The remainder goes to the Licensing Authority. These funds will be used to tackle alcohol related crime and disorder and also the management of night time economies. The Licensing Authority can determine that 100% of the levy (minus administration) is passed to the police.

Funds allocated to the Licensing Authority can be spent on activities designed to:

- (i) reduce crime and disorder;
- (ii) promotion of public safety;
- (iii) reduction or prevention of public nuisance; or
- (iv) cleaning of any relevant highway or relevant land in the local authority area.

2.11 The Police have advised that all income they receive from a LNL will be used to fund SaferMK projects tackling alcohol related problems in the night-time economy.

2.12 If introduced, the levy will be applicable to any premises operating a late night supply (of alcohol) between a specific set of hours starting no early than 12 midnight and no later than 6am. Other licensable activities, such as provision or late night refreshment or regulated entertainment and opening hours are not affected by a LNL. i.e. Late night refreshment venues will therefore not contribute to a LNL.

2.13 The levy fees are set by the Government and will be based on the non-domestic rateable value (NDRV) of the premises. The NDRV is currently used to determine the application and annual fees for all licensed premises and generally requires larger premises to pay a higher fee. A table of the charges is included below.

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>D x 2</b>	<b>E x 3</b>
<b>Rateable Value Bands (based on the existing fee bands)</b>	No rateable value to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 and above	Multiplier applies to premises in category D that primarily or exclusively sell alcohol	Multiplier applies to premises in category E that primarily or exclusively sell alcohol
<b>Levy Charges</b>	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440
<b>Annual Fee</b>	£100	£190	£315	£900	£1,905	N/A	N/A

2.14 The Levy must be set across the whole borough. It cannot be restricted to a specific area.

2.15 The Licensing Authority will be able to deduct costs for administration from the gross income. These are likely to be considerable, requiring a new administrative and invoicing process and enforcement of the levy. Although difficult to estimate at this time it is anticipated that the FTE of approximately one post will be required to administer a LNL, depending on the late night supply period. There is no cap on what may be claimed as expenses, and currently enforcement costs can be included in this.

2.16 Potential income will be dependant upon the late night supply period. The table below details the potential gross income and premises affected, depending upon the late night supply period

Late night supply period	00:00 to 6am	1am to 6am	2am to 6am	3am to 6am	4am to 6am	5am to 6am
Premises affected	325	166	87	42	31	24
Approximate income	£230,000	£135,000	£70,000	£50,000	£35,000	£30,000
Administrative costs estimate	£50,000	£35,000	£25,000	£20,000	£20,000	£20,000
70% to Police	£126,000	£70,000	£31,500	£21,000	£10,500	£7,000
30% to Licensing Authority	£54,000	£30,000	£13,500	£9,000	£4,500	£3,000

- 2.17 The Police have proposed a late night supply period of 1am to 6am.
- 2.18 These figures do not include the potential for exemptions and reductions if applied by the Licensing Authority.
- 2.19 Any premises wishing to apply for a minor variation to reduce their hours to fall outside of the late night supply period must be provided free of charge by the Licensing Authority.
- 2.20 If the LNL is not imposed the Police may lose a potential funding stream to conduct anti-crime operations. A LNL may reduce the number of premises open late at night, potentially reducing the scope for alcohol related crime.
- 2.21 Members will want to consider the financial burden placed upon local businesses. Table 2.12 shows the difference between the current annual fees paid by a licensed premises and the potential LNL fee. Members will note that the LNL fees could be between two and four times more than the current annual fee (the annual fee does not contribute to the cost of policing the night-time economy).
- 2.22 The introduction of a LNL may result in a reduction of the Late Night Economy where businesses move to other city centres where a LNL is not in place. The public consultation, if undertaken will provide a clearer view on the position of affected businesses.

### 3. Options

3.1 There are two alternative options:

- (a) Members can determine that it is not viable to propose a LNL for Milton Keynes and consequently not undertake a public consultation.

This will negate the cost of consultation. However, Members should be aware that this will be a direct rejection of the police request to impose an LNL. The Police tackle alcohol related late night crime on a daily basis and are uniquely positioned to determine whether an LNL is required. To determine not to undertake a formal consultation will not allow a full and effective discussion around the issues and would require strong evidence to counter the request from the police.

- (b) Members can determine an alternative LNL proposal, for example increasing/ decreasing the proposed late night supply period.

This will consequently amend the number of businesses affected and potential revenue. A proposed LNL should reflect the views of the Committee. As it stands there is no other case other than that provided by the Police.

Following consultation, the proposed LNL can be amended to form the final LNL if determined it should be imposed.

## 4. Implications

### 4.1 Policy

The current Licensing Policy would have to be amended to LNL.

Further detailed work on the implementation and maintenance and costs of a LNL will have to be undertaken if Members accept the recommendation.

This is not a decision to implement the LNL, rather, it is a decision on a whether a LNL is viable and if so, determining a proposed LNL to go to consultation.

### 4.2 Resource and Risk

The costing table above is a snap shot view which could change significantly once any levy is set. This risk is increased when considering the potential for premises to amend their hours to avoid payment of the fee.

Example - Setting a late night supply period of 1am could result in the 65 premises currently supplying alcohol until 1am reduce their hours to 0.59am, reducing the LNL income significantly. In this case approximately £64,000.

Any risk with regard to less than expected income from the LNL is to be underwritten by the Licensing Authority.

The resource implications include a public consultation, potential minor variation applications, process and procedure set up as a one off cost. Continued costs will include maintenance of billing system, administration, enforcement and project costs to spend income. A benchmarking exercise of three other local authorities identify administrative costs between £5,000 and £15,000. MKC Officers do not feel this is accurate and consider the costs entered in the table at 2.15 to be more indicative of all administrative costs.

The key risk is that the cost of operating the levy may be inhibitory to obtaining any effective funds to tackle alcohol related crime and disorder in comparison to the costs, both financial and goodwill, met by the local licensed premises. This may be mitigated by additional detail provided by partners at consultation with regard to what additional activities could be undertaken with the revenue raised by a LNL.

Consultation responses will provide a steer to the views of the licensed premises potentially affected by a LNL.

The key opportunity is that additional funds are raised to police the late night economy.

Y	Capital	Y	Revenue	N	Accommodation
Y	IT	Y	Medium Term Plan	Y	Asset Management

4.3 Carbon and Energy Management

None

4.4 Legal

Adoption of a LNL require a consultation processes to be followed prior to a policy decision being made. Adopting a LNL in circumstances that result in a negative impact on existing licence holders will require reliable evidential justifications in order to withstand the rigours of potential judicial challenge.

The final decision to impose a LNL should be ratified by Full Council.

4.5 Other Implications

A public consultation must be available on the internet and provisions to be in place to receive responses electronically.

There will be signification implications for stakeholders in the late night economy.

Crime and disorder may be reduced by the implementation of a levy to either reduce the number of premises opening late and providing additional funds to tackle alcohol related crime.

N	Equalities/Diversity	N	Sustainability	N	Human Rights
Y	E-Government	Y	Stakeholders	Y	Crime and Disorder

Background Papers:

The Police Reform and Social Responsibility Act 2011

The Late Night Levy (Application and Administration) Regulations 2012.

The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

Amended Guidance on the Late Night Levy