



MEETING : LICENSING COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : THURSDAY 8 MARCH 2012
TIME : 4.30 PM

MEMBERS OF THE COMMITTEE:

Councillor M McMullen (Chairman).
Councillors W Ashley, P Ballam, E Bedford, R Beeching, E Buckmaster,
A Burlton, Mrs R Cheswright, K Crofton, J Demonti, N Poulton, J Taylor,
A Warman, N Wilson and B Wrangles.

Substitutes:

Conservative Group: Councillors D Abbott, G Jones and P Ruffles.
Liberal Democrat Group:
Independent Group: Councillor M Newman.

(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting).

CONTACT OFFICER: Peter Mannings
01279 502174.

PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
 - any other body to which they have been appointed or nominated by the authority
 - any other body exercising functions of a public nature (e.g. another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
 - the matter does not fall within one of the exempt categories of decisions
 - the matter affects your financial interests or relates to a licensing or regulatory matter
 - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

7. Exempt categories of decisions are:
 - setting council tax
 - any ceremonial honour given to Members
 - an allowance, payment or indemnity for Members
 - statutory sick pay
 - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
 - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.

8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.

9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Member(s)' declaration(s) of interest.

4. Minutes - 3 November 2011 (Pages 7 - 12).

To approve the Minutes of the meeting of the Committee held on 3 November 2011.

5. Licensing Sub-Committee (Pages 13 - 38).

To receive the following Minutes of Meetings of the Licensing Sub-Committee:

19 December 2011

20 January 2012

6 February 2012.

6. Review Of Taxi Licensing Conditions And Proposed Amendments To Taxi Licensing Policy (Pages 39 - 44).

7. Report On Home Office Feedback To Consultation: Relaxation Of Alcohol Licensing Hours For The Queen's Diamond Jubilee On Friday 1 June To Tuesday 5 June 2012 (Pages 45 - 54).

8. Home Office Consultation On Secondary Legislation For Early Morning Restriction Orders And The Late Night Levy (Pages 55 - 118).

9. Gambling Act 2005 - Timetable For Revision Of Statement Of Licensing Principles (Pages 119 - 122).

10. Report On Licensing Activity Quarter 4 2011 (Pages 123 - 128).
11. Expression Of Interest From Road Worthiness Garages (Pages 129 - 132).
12. Feedback On Consultation With The Taxi Trade - Next Fare Table Increase (Pages 133 - 136).
13. Attendance at Licensing Sub-Committee (Pages 137 - 142).
14. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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MINUTES OF A MEETING OF THE
LICENSING COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 3 NOVEMBER
2011, AT 4.30 PM

PRESENT: Councillor A Burlton (Chairman).
Councillors W Ashley, P Ballam, E Bedford,
E Buckmaster, Mrs R Cheswright, K Crofton,
J Demonti, N Poulton, P Ruffles, J Taylor and
N Wilson.

OFFICERS IN ATTENDANCE:

Linda Bevan	- Committee Secretary
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager

387 APOLOGIES

Apologies were submitted on behalf of Councillors R Beeching, M McMullen and B Wrangles. It was noted that Councillor P Ruffles was in attendance as a substitute for Councillor R Beeching.

388 CHAIRMAN'S ANNOUNCEMENTS

The Chairman asked Members to consider an item from the Interim Licensing Manger on Roadworthiness Garages. The Interim Licensing Manager explained that he had received a request from a garage in Stanstead Abbotts to offer a service to provide MOT and roadworthiness certificates for taxis. A number of garages offered this service in East Herts but these were not in this village. He asked for Members' views and they said they approved of an additional garage offering the service in that location.

389 MINUTES

RESOLVED - that the Minutes of the meeting held on 1 September 2011 be approved as a correct record and signed by the Chairman.

390 LICENSING SUB-COMMITTEE

RESOLVED – that the Minutes of the Licensing Sub-Committee meetings held on 23 August, 7 September, 19 September and 10 October 2011 be received.

391 ATTENDANCE AT LICENSING SUB-COMMITTEE

The Director of Internal Services submitted a report on details of Members' attendance at meetings of the Licensing Sub-Committee since 18 May 2011.

The Committee commented that Members who had not received training could not be Members of Sub-Committees. The Interim Licensing Manager said Officers were seeking training opportunities for these Members but none were currently available.

The Committee decided to receive the report.

RESOLVED – that the report be received.

392 LICENSING UPDATE QUARTER 3 2011

The Director of Neighbourhood Services submitted a report updating Members on activity in the Licensing Section including processing licences, and other implementation of the Service Plan. The Interim Licensing Manager gave details of enforcement activity at the meeting. He said he expected an increase in taxi licensing activity as a new private hire company was proposed for Hertford.

Members decided to receive the report.

RESOLVED – that the report be received.

393 DCMS CONSULTATION ON DEREGULATION OF REGULATED ENTERTAINMENT

The Director of Neighbourhood Services submitted a report seeking Members' views on a response to a DCMS (Department of Culture, Media and Sport) consultation on the Deregulation of Regulated Entertainment under the Licensing Act.

The Interim Licensing Manager explained some of the responses suggested by him and the Environmental Health Officer.

Members expressed concern that the proposals would cause increased nuisance to residents in the District. They wanted the Council to be pro-active in dealing with these issues rather than re-active only. They decided to set up a working party to consider a response to the DCMS as detailed below. They also suggested the issue should be considered by the Environment Scrutiny Committee.

RESOLVED – that (A) a working party be set up to consider the Council's response to the consultation on the deregulation of regulated entertainment comprised of Officers from the Licensing and Environmental Health sections, a Police representative and Members drawn from the Licensing and Environmental Scrutiny Committees; and

(B) the report now submitted be considered by the Environmental Scrutiny Committee as an item of urgent business (subject to the agreement of the Chairman of that Committee) on 15 November 2011, so that this consideration could take place before the deadline for a response on the consultation.

394 AMENDMENTS TO LICENSING ACT BY POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

The Director of Neighbourhood Services submitted a report on amendments to the Licensing Act 2003 introduced by the Police Reform and Social Responsibility Act 2011.

The Interim Licensing Manager explained the benefits of some of the changes. However, he pointed out that if Licensing Authorities were required to advertise applications in the press this would be expensive.

Members decided to receive the report and requested that any funds made available for advertising be allocated to the appropriate section.

RESOLVED – that (A) the report be received; and

(B) any funds made available for advertising licensing applications be identified and made available to the Licensing section.

395 DIAMOND JUBILEE

The Director of Neighbourhood Services submitted a report seeking Members' views on a Home Office consultation on the relaxation of licensing restrictions for alcohol licensed premises for the Queen's Diamond Jubilee on 1 to 5 June 2012.

Members decided to send a response approving of the relaxation of restrictions.

RESOLVED – that the Home Office be informed of the Committee's approval of proposals for the relaxation of licensing restrictions for the Queen's Diamond Jubilee.

396 FEEDBACK ON CONSULTATION WITH THE TAXI TRADE

The Director of Neighbourhood Services submitted a

report on feedback from a consultation with the licensed taxi trade on whether a fare increase was appropriate.

A meeting had been held with representatives of the taxi trade to discuss a possible fare increase because of the rise in fuel prices. However, the representatives had felt such a rise would further damage trade which had been adversely affected by the economic downturn. They had asked for a further consultation in January 2012.

Members noted the comments of the taxi trade and decided to receive the report.

RESOLVED – the report be received.

397 ATTENDANCE AT MAGISTRATES' COURT

The Chairman of the Licensing Committee, Councillor M McMullen had requested comments from the Legal Section on the appearance of Councillors in the Magistrates' Court for appeals.

The Legal Services Manager explained that it was possible that Councillors would be asked to appear when there was an appeal to the Magistrates' Court about a decision of the Licensing Sub-Committee. However, recent cases had been dealt with and resolved by Officers, so that no Councillors had been called upon. He hoped the same would apply to a recent case that had arisen in Sawbridgeworth.

In response to concerns expressed by Members, he assured them that they would be given full support by his team although the initial statement giving a view of proceedings at the Sub-Committee would have to come from the Member appearing in Court. He emphasised the need to inform him if Members felt they were not adequately supported in licensing matters. He assured them of his every efforts to ensure this was the case and would address any further concerns they had.

Members noted the comments of the Legal Service

Manager.

RESOLVED – that the comments of the Legal Service Manager on support for them on Licensing matters be noted.

The meeting closed at 5.40 pm

Chairman
Date

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE THE OLD COURTHOUSE, WINDHILL,
BISHOP'S STORTFORD (ENTRANCE
OPPOSITE CHURCHYARD AT BACK OF
POLICE STATION) ON MONDAY 19
DECEMBER 2011, AT 10.00 AM

PRESENT: Councillors A Burlton, M McMullen and
A Warman.

ALSO PRESENT: Councillors E Buckmaster.

OFFICERS IN ATTENDANCE:

George Robertson	- Legal Services Manager
Peter Mannings	- Democratic Services Assistant
Paul Newman	- Interim Licensing Manager

LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS
2005 (AS AMENDED) - APPLICATION FOR AT PREMISES LICENCE, AT
QUEENS HEAD, 26 KNIGHT STREET, SAWBRIDGEWORTH

Natalie Bavin	- Applicant
Mr Keith Bavin	- Applicant
John Ivens	- Hertfordshire Constabulary

CONSIDERATION OF AN APPLICATION TO RE-LICENCE A HACKNEY
CARRIAGE LICENSED AS A PRIVATE HIRE VEHICLE IN THE AREA OF
HUNTINGDONSHIRE DISTRICT COUNCIL

Mr Hasler	- Applicant
Mr Ian Jackson	- Solicitor

18 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor A Warman and seconded by Councillor A Burlton that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

19 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that he would take the matters referred to at minute 24 prior to minute 25, to give the Applicant the opportunity to attend the hearing.

20 MINUTES

RESOLVED – that the Minutes of the meetings held on 19 September and 10 October 2011, be confirmed as correct records and signed by the Chairman.

21 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION FOR AT PREMISES LICENCE, AT QUEENS HEAD, 26 KNIGHT STREET, SAWBRIDGEWORTH

The Chairman outlined the procedure to be followed. All those present for the application were introduced.

The Interim Licensing Manager outlined the application made by Natalie Bavin to vary the premises license in relation to the times permitted for live and recorded music, and anything of a similar description, at the Queens Head, 26 Knight Street, Sawbridgeworth.

The Interim Licensing Manager circulated a Google map image detailing the location of the premises. The Sub-Committee was advised that Natalie Bavin already offered

live music under a number of temporary event notices and she had now applied to add live and recorded music to her premises license.

Members were advised that the Police and Environmental Health had responded to consultation with a number of concerns, which had been included with the Agenda papers. The Interim Licensing Manager stressed that Environmental Health Officers had not been able to provide any specific evidence to back up objectors' concerns in relation to this application.

The Sub-Committee was referred to pages 35 and 36 of the report now submitted for a number of suggested conditions from John Ivens of Hertfordshire Constabulary. Members were advised that a number of residents' complaints had related to the breach of temporary event notices in that karaoke had continued until 11:30 pm when this should have concluded at 11 pm.

The Interim Licensing Manager stated that there had been 9 letters of objection received during the consultation period with 2 more being received later. Residents' concerns were principally in relation to noisy customers shouting and general noise nuisance. Residents had also been concerned with the general conduct of the pub's patrons.

The Sub-Committee was advised that some residents had raised concerns relating to the conduct of the licensee and her husband when responding to complaints.

In response to a query from Councillor A Burlton, the Sub-Committee was reminded that this was an application to vary an existing alcohol and premises licence. The Applicant, Natalie Bavin, stressed that she did not agree with much of the content of the objection letters. She commented that she had never set out to upset her neighbours and apologised for the later than permitted conclusion to a karaoke event that should have concluded at 11 pm.

Natalie Bavin stated that the imposition of a noise limiter could not be justified in the absence of any evidence from Environmental Health in relation to noise complaints. She also stressed that she was not comfortable with turning customers away at 11 pm, although she had a policy of not allowing entry to groups in excess of 4 people beyond this time.

John Ivens agreed that not admitting large groups beyond 11 pm was a sensible approach. He commented however that a noise limiter would govern the volume limit for all forms of music, whether this was from a live band or a karaoke event. He stated that the approved level could be agreed with Police and Environmental Health.

Natalie Bavin stated that she was not seeking to have live or recorded music all of the time. She commented that birthday parties were an example of where there may be some form of live musical entertainment. She expressed concerns in relation to the suggested later start time of 9 pm for live and recorded music.

The Sub-Committee was advised by Natalie Bavin that this application was principally to increase the revenue intake for the pub and she was happy with most of the suggested conditions, aside from not wishing to turn away groups of less than 4 people, the noise limiter and the later starting times.

Natalie Bavin stressed that the Queens Head was not a young persons' pub and she was not seeking to have live or recorded music or karaoke every week. She stated that she was not concerned about providing such entertainment on Fridays. She advised that she had been a member of pub watch and had often handed CCTV footage to the police to assist with enquiries.

In response to a query from Councillor A Burlton, Natalie Bavin stated that the evening where the Karaoke had overrun was an isolated breach of a temporary event

notice and she had spoken to the DJ on duty that night. Councillor Burlton stressed the importance of having someone on duty who knew the rules that had to be adhered to regarding the operation of the premises.

In conclusion, John Ivens stated that he felt that his suggested conditions were fair and reasonable when considering the location of the Queens Head in a town centre and in close proximity to residential properties.

Natalie Bavin concluded that she was running a family business whilst seeking to make a living in this location and she had taken into consideration all of the comments made in relation to her application.

At the conclusion of the representations the Applicant and her husband, the Interim Licensing Manager and the police representative withdrew to allow the Sub-Committee to consider the evidence.

Following this they returned and the Chairman announced the decision of the Sub-Committee, which was that the application be approved subject to the conditions now detailed.

RESOLVED – that the application to vary the Premises Licence at the Queens Head, Sawbridgeworth be approved subject to the following conditions:

1. Live and recorded music permitted only on Saturdays from 7 pm to 11 pm and on Sundays from 7 pm to 10 pm with karaoke events permitted once per month on Sundays between 7pm and 10pm.
2. All external doors and windows to be kept closed during live or recorded events, except for ingress and egress.
3. No live, recorded or background music shall

be played in or broadcast to external areas.

With regard to the noise limiter, the Sub-Committee agreed not to impose this as a condition at this time. However, if there were future problems with noise complaints, these would come before a Sub-Committee and it is likely that a noise limiter would need to be imposed. In relation to background music, this is not a licensable activity and therefore it may be played at anytime.

22 CONSIDERATION OF AN APPLICATION TO RE-LICENCE A HACKNEY CARRIAGE LICENSED AS A PRIVATE HIRE VEHICLE IN THE AREA OF HUNTINGDONSHIRE DISTRICT COUNCIL

The Chairman outlined the procedure to be followed. All those present for the application were introduced.

The Interim Licensing Manager advised that the East Herts Taxi Licensing Policy stipulated that taxi vehicles would not be dual plated as taxis for East Herts and any other taxi licensing authority. This policy was adopted by the East Herts Licensing Committee on 22 July 2010 following public and internal consultation.

The Sub-Committee was advised that the applicant applied on 28 November 2011 to renew his Hackney Carriage Vehicle Proprietors Licence, which was due to expire on 12 January 2012. The Interim Licensing Manager stressed that Officers must always know under which Licence a Taxi Driver was operating if a vehicle was dual plated. Members were advised that Huntingdonshire District Council operated a similar policy.

Ian Jackson, Solicitor for the Applicant, advised that the Applicant operated a silver Honda Accord Estate, which was used for private hire in Huntingdon during the week and at weekends in East Herts as a Hackney Carriage. The Sub-Committee was advised that the applicant had operated in this way for 4 years and the policy referred to

by the Interim Licensing Manager had been in place before a recent renewal of the Applicant's licence.

Ian Jackson stated that this application fully supported the policy objectives of the Authority in that the Applicant would be promoting prosperity and well-being and providing access and opportunities for residents of the District. The Applicant would also be enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who were vulnerable.

The Sub-Committee was advised that the Applicant hoped to provide a local taxi service in East Herts at weekends, typically a time when the public would struggle to get a taxi as demand often exceeded supply.

Ian Jackson stressed that the Applicant had identified a way of working that was economically viable and was positive for the travelling public. The Sub-Committee was reminded that licensing legislation was a general policy as opposed to a rigid set of rules.

Members were advised that there would always be a clear distinction as to how the Applicant was operating. Ian Jackson emphasised that, when operating as a Hackney Carriage, the roof light and meter would be in operation. These could be disabled during periods when the vehicle was being used for private hire in Huntingdonshire.

The Sub-Committee was advised of the significant costs that would be incurred should the Applicant have to purchase, insure and operate a second vehicle. Ian Jackson stressed that Licensing Regulations were worded in such a way as to give Members the discretion to depart from policy in exceptional circumstances.

The Interim Licensing Manager commented that the Hackney Carriage Licence allowed the Applicant to operate in the Huntingdonshire area as the licence plate and roof light could be left in place but the meter would

only need to be in operation if the journey started and ended in East Herts.

At the conclusion of the representations the Sub-Committee withdrew with the Legal Services Manager and the Democratic Services Assistant to consider the evidence.

Following this, they returned and the Chairman announced the decision of the Sub-Committee, which was that the application be approved as these were special circumstances and the Sub-Committee would not normally depart from policy. However, Mr Hasler had operated in compliance with the requirements of the Council for the past 4 years and since his renewal in January 2011.

RESOLVED – that the application for the Hackney Carriage License be approved.

23 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100 (A)(4) of the Local Government Act 1972 as amended to exclude the press and public during consideration of the business referred to in Minutes 24 – 25 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

24 CONSIDERATION OF A REQUEST FROM A FORMER TAXI APPLICANT TO BE ALLOWED TO RESUBMIT A PREVIOUS APPLICATION - MR S

The Chairman invited the Interim Licensing Manager to summarise the nature of the application in the absence of the Applicant.

The Interim Licensing Manager advised that a revision to Taxi Licensing Policy from July 2010 stipulated that applicants for taxi licences should remain in contact with

Officers with gaps of no more than 6 months without any contact.

The Sub-Committee was advised that applications that had not been progressed may be refused under delegated powers. The applicant concerned would then be required to recommence a fresh application.

The Interim Licensing Manager stated that Officers had no record of any contact from the Applicant for 19 months. The Applicant had since contacted Officers and stated that he now wished to progress his application which was why this case was before the Sub-Committee.

The Sub-Committee heard a letter of mitigation from the Applicant stating why he had not progressed the application until now. The Interim Licensing Manager explained that the Sub-Committee could either require the Applicant to submit a fresh application or Members could permit the Applicant to proceed with an old application, thereby overturning the delegated powers available to Officers.

In response to a query from Councillor A Burlton, the Interim Licensing Manager advised that the applicant would have to re- take the knowledge tests and resubmit all documentation to Officers before he could start working as a taxi driver.

At the conclusion of the representations, the Chairman announced the decision of the Sub-Committee which was that the Applicant be invited to submit a fresh application and the deposit for the fresh application be waived.

RESOLVED – that the Applicant be required to submit a fresh application.

25 CONSIDERATION OF A STAGE OF APPLICATION TO BE A TAXI DRIVER - APPLICANT WITH AN UNSPENT UNDISCLOSED CONVICTION AND AN UNDISCLOSED CAUTION IN 2009 - MR K

The Chairman invited the Interim Licensing Manager to summarise the nature of the application in the absence of the applicant.

The Interim Licensing Manager advised that the applicant had applied on 29 March 2011 to be licensed as a taxi driver. The Sub-Committee was advised that the application form had not referred to any matters material to the suitability and fitness of the applicant to hold a taxi driver's licence.

Members were advised that Officers had subsequently received a Standard Disclosure of the Applicant's criminal record. The Interim Licensing Manager detailed the nature of the Applicant's offences and subsequent convictions. A copy of the Applicant's Criminal Records Bureau (CRB) disclosure was circulated to the Sub-Committee.

Members were advised that the Applicant had held private hire licences in the past in the London area prior to this application to East Herts Council.

At the conclusion of the representations, the Chairman announced the decision of the Sub-Committee which was that the application be refused.

RESOLVED – that the application for the Taxi Driver's License be refused.

The meeting closed at 12.30 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON FRIDAY 20 JANUARY
2012, AT 10.00 AM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors E Buckmaster and J Demonti.

ALSO PRESENT:

Councillors M McMullen and P Ruffles.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Chris Clowes	- Licensing Enforcement Manager
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager
Caroline Wise	- Licensing Officer

26 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor J Demonti and seconded by Councillor E Buckmaster, that Councillor Mrs R Cheswright be appointed Chairman for the meeting.

RESOLVED – that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

27 APPLICATION FOR A PREMISES LICENCE TO PROVIDE
LATE NIGHT REFRESHMENT ONLY (NO ALCOHOL), EFES
KEBAB, 6A HIGH STREET, BUNTINGFORD

The Chairman outlined the procedure to be followed. All

those present for the application were introduced.

The Interim Licensing Manager outlined the application to extend the premises licence on Friday and Saturday to 1am at EFES Kebab, 6A High Street, Buntingford. He advised that four representations from interested parties had been received including from Hertfordshire Constabulary. The Interim Licensing Manager summarised the concerns expressed by the interested parties.

The Hertfordshire Constabulary Police Licensing Officer stated that he was concerned about a possible increase in crime and disorder in the area. He also added that such an extension of the licence might lead to groups gathering, causing a disturbance to local residents and the generation of litter. He suggested that the use should cease at midnight and asked that conditions be imposed regarding the collection / disposal of litter and that a registered door supervisor be employed on Friday and Saturday nights from 11 pm.

The applicant's solicitor advised that the applicant and his wife lived above the premises and had just had a baby. He said that that the applicant would not want the extended hours to be a public nuisance and would be happy to ensure that the area was cleaned up. He explained that the applicant had asked for an extension of hours as he was finding things financially difficult and hoped that the additional hours would help the business.

The applicant's solicitor stated that the door supervisor suggested by the Police would not be necessary and he was prepared to "train up" a member of staff to help in this matter. The Police Licensing Officer explained that a door supervisor would have to be properly registered and that this would have to be their sole employed role and that it would not be possible to "train up" a member of staff. John Ivens referred to the "perceived" fear of problems should the premises be allowed to extend their hours.

The applicant's solicitor stated that his client was aware of the concerns of the Police. He added that he was struggling with his business and that an extension of the hours would help him.

At the conclusion of the representations, Members of the Sub Committee, the Legal Services Manager and Committee Secretary withdrew so that the Sub-Committee could consider the evidence.

On return, the Chairman of the Sub-Committee advised that, having carefully considered the comments and representations put forward agreed to approve the application on the basis of condition (2) suggested by the Police namely that:

1. "at the close of trade, all rubbish, foodstuffs and containers including bottles and cans that are sold from the establishment that have been incorrectly disposed of be collected and correctly disposed of, for an area of 50 metres either side of EFES"

The Sub-Committee was not convinced that there was any evidence to support the need for a registered door supervisor at this stage. The Sub-Committee was concerned about noise and advised that if there were any problems the matter may be brought back for review.

RESOLVED – that the application to extend the premises licence to provide late night refreshment on Friday and Saturdays up to 1am be approved.

28 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100 (A)(4) of the Local Government Act 1972 as amended, to exclude the press and public during consideration of the business referred to in Minutes 29 – 30 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of

Schedule 12A of the said Act.

29 APPLICATION TO BE A TAXI DRIVER

The Chairman sought permission from the applicant that Councillors M McMullen and P Ruffles and Licensing Officers could remain in the room to hear the application. This was agreed.

The Chairman introduced Members of the Sub-Committee and Officers and asked the Interim Licensing Manager to summarise the application.

The applicant was provided with an opportunity to respond to the summary. The applicant's friend advised that all of the convictions had occurred a long time ago and the applicant now wanted to be a taxi driver. He stated that the applicant had three children to support and was on benefits.

In response to a query from Councillor E Buckmaster about the non-disclosure of a conviction, the applicant said that he had disclosed his convictions during an interview with the Interim Licensing Manager. The Interim Licensing Manager stated that the applicant had not disclosed all of his convictions.

The Chairman sought the applicant's view as to why he felt he was a "fit and proper person" to be a taxi driver. The applicant's friend commented that the applicant had nothing further to add.

At the conclusion of the representations, Members of the Sub Committee, the Legal Services Manager and Committee Secretary withdrew so that the Sub-Committee could consider the evidence.

On their return, the Chairman of the Sub-Committee advised that, having carefully considered the comments and representations put forward, the Sub Committee was concerned about the applicant's previous convictions and

the real evidence supplied and therefore refused the application.

RESOLVED – that the application be refused for the following reason:

1. The Sub-Committee was concerned about the applicant being a fit and proper person to hold such a licence, in the light of his previous convictions and public safety.

30 REVIEW OF TAXI DRIVER LICENCE

The Chairman sought permission from the applicant that Councillors M McMullen and P Ruffles and licensing officers could remain in the room to hear the application. This was agreed.

The Chairman introduced Members of the Sub-Committee and Officers and asked the Interim Licensing Manager to summarise the application. He referred to the fact that the applicant had unspent convictions and queried whether he was a “fit and proper” person to hold such a licence. He referred to the Council’s Tax Licensing Policy in regard to such matters. The Interim Licensing Manager referred to the Penalty Points Scheme and how this operated should the Sub-Committee not wish to revoke his licence.

The applicant’s solicitor provided an outline of the circumstances behind his clients’ convictions including the recent one in 2011. He stated that the applicant was a “fit and proper” person and did not represent any danger to the public. The Solicitor stated that, given the applicant’s, removing his licence would be the end of his taxi driving career.

For the purpose of clarification, the Interim Licensing Manager agreed to amend paragraph 2.3 of the report now submitted, at the solicitors request.

In response to a query from Councillor E Buckmaster, the applicant stated where he had lived throughout Europe.

In response to a query from Councillor J Demonti, the Interim Licensing Manager provided advice concerning medical examinations and where records were kept.

The applicant's solicitor stressed that the applicant was not a danger to the travelling public. He referred to the division of roles in terms of what the applicant did at weekends and the time he was driving. The solicitor stated that the applicant was currently supporting himself but at some point would have to stop driving.

At the conclusion of the representations, Members of the Sub Committee, the Legal Services Manager and Committee Secretary withdrew so that the Sub-Committee could consider the evidence.

On return, the Chairman of the Sub-Committee advised that, having carefully considered the comments and representations put forward, the Sub-Committee had decided that the licence holder was not a "fit and proper" person, given that he had acknowledged that he was a recreational user of cannabis and that he had been convicted of growing the drug for his personal use. As such, the Sub-Committee could not be satisfied that when driving his cab, he would not be under the influence of cannabis. The Sub-Committee agreed to revoke the licence holder's licence with immediate effect.

RESOLVED – that the licence be revoked with immediate effect following reason:

1. The Sub Committee was concerned about the licence holder being a fit and proper person to hold such a licence.

The applicant's solicitor sought Members' reconsideration and asked Members not to revoke the licence with immediate effect, to allow the

applicant the opportunity of going through the appeal process. The solicitor said that this would allow his client to continue to use his licence until the appeal was heard at the Magistrates Court.

The Sub-Committee reaffirmed their decision to revoke the applicant's licence with immediate effect.

The meeting closed at 12.45 pm

Chairman
Date

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MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON MONDAY 6 FEBRUARY
2012, AT 2.00 PM

PRESENT: Councillor M McMullen (Chairman).
Councillors Mrs R Cheswright and
J Demonti.

ALSO PRESENT:

Councillors A Jackson and P Ruffles.

OFFICERS IN ATTENDANCE:

Ben Firmin	- District Environmental Health Officer
Peter Mannings	- Democratic Services Officer
Paul Newman	- Interim Licensing Manager
George Robertson	- Legal Services Manager
Sheila Winterburn	- Environmental Health Manager - Housing

31 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor Mrs R Cheswright and seconded by Councillor J Demonti that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor M McMullen be appointed Chairman of the Licensing Sub-Committee for the meeting.

32 APOLOGY

An apology for absence was submitted on behalf of Councillor W Ashley.

33 LICENSING ACT 2003 - LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (AS AMENDED) - APPLICATION TO VARY A PREMISES LICENCE, AT WILKESTOCK 4 ACRE FIELD, WATERBRIDGE, FROGMORE HILL, WATTON AT STONE, SG14 3RR

The Chairman outlined the procedure to be followed. All those present for the application were introduced.

The Interim Licensing Manager provided a background to the application. He summarised the case in that the applicant wished to vary the premises license at Wilkestock, 4 Acre Field so that 1500 people could attend what was an open air music festival in September 2012 with a further smaller scale festival earlier in the year. Members were advised that the opening hours and activities covered by the application were set out on pages 8 and 9 of the report now submitted.

The Interim Licensing Manager advised that the applicant was not in agreement with 3 of the conditions suggested by Environmental Health as detailed at pages 32 – 34 of the report submitted. The applicant had also given an assurance that suggested safeguards from Hertfordshire Fire and Rescue would be implemented.

The Sub-Committee was advised that 10 residents objections had been received, along with the representation from Environmental Health. The Interim Licensing Manager stated that Hertfordshire Highways and Hertfordshire Constabulary had not objected to the application as there had been minimal disruption in previous years.

Hertfordshire Constabulary had stated that the force hoped to work with the applicant to ensure a safe event.

Aston Parish Council had neither supported the application or raised any objections. A number of letters of support had been received from local residents on the basis of it being a well run festival that had raised money for charitable causes.

The Interim Licensing Manager referred to the objections raised relating to the increase in the scale of the festival, disturbance of the peace and noise levels reaching intolerable levels due to the increased crowd capacity.

Objectors had also been concerned in relation to health and safety and the risks of pollution if appropriate sanitation was not provided.

Finally, concerns had been raised in relation to parking stress and the likely increases in road traffic placing unacceptable demands on the local road network. Some residents had been unhappy in respect of the likely disruption to sleep and the potential for street fouling in the roads surrounding the site.

Environmental Health Officers were in attendance and commented that they had offered a number of conditions, most of which had been supported by the applicant. There remained some noise conditions where the applicant and Officers had not been able to reach agreement.

The Sub-Committee was advised of the criteria used by Officers in suggesting conditions to mitigate the likely noise impacts of the application. Officers were of the view that the application, if approved, could give rise to more complaints from residents in relation to noise.

In response to a query from Councillor J Demonti, Members were advised that with a conditioned noise limit of 15 decibels above background noise levels before 11 pm on Friday, Saturday, Sunday, Officers would not expect there to be any complaints.

In response to a query from an objector, Officers confirmed that noise nuisance legislation, typically, did not apply to Temporary Event Notices (TENs), which had been in place at Wilkestock on a number of occasions in recent years.

The Interim Licensing Manager confirmed that when authority was approved for TENs, any conditions on a premise license would not be enforceable under licensing legislation.

Councillor A Jackson, as the local ward Member, commented that he hoped that a pragmatic middle ground could be achieved between the applicant and residents. He hoped that there could be an outcome that allowed this event to continue whilst also satisfying the increasing concerns of residents, who had historically been very tolerant of the applicant's activities at Wilkestock.

Councillor Jackson emphasised that there appeared to be a strength of feeling amongst residents against a greater number of evening activity relating to the Wilkestock festival. He also stated that Hertfordshire Constabulary and Hertfordshire Highways might also find they received more complaints should this application be approved.

An objector, who knew the applicant well, explained he was in difficult position as he admired the applicant's intentions and the Wilkestock festival had proved to be an enjoyable and low key event. He stated that residents' views in recent years had ranged from mild positivity to tolerance.

The objector referred to last year's festival at Wilkestock and stated that residents had been troubled by sleep deprivation and were now concerned that the increase in size of the event would cause significant distress and disruption. The objector agreed with Councillor Jackson that a middle ground should be the best way forward.

The applicant summarised his reasons for submitting the

application to vary the premises licence. He stressed that he understood residents' objections but had been unaware of many of them. The applicant acknowledged that noise levels at the 2011 event had been far too high and would never be repeated. He reminded the Sub-Committee that the event had an excellent public safety record and there had been no objections from Hertfordshire Constabulary or Hertfordshire Highways.

The applicant's supporting speakers addressed the Sub-Committee in support of the application, including the DJ responsible for the sound equipment for the Wilkestock festival. He stated that he could adhere to the layout plans and the stipulations regarding noise that had been put forward by Environmental Health.

The applicant commented that the increase in days was to facilitate a pre-event to raise the necessary funds to run the Wilkestock festival.

Environmental Health Officers stressed that the conditions they had suggested were very stringent due to the increased duration of the festival and were the most stringent that could be applied.

Environmental Health Officers explained that less stringent conditions would be applied if the duration of the festival was reduced to 3 days. However, whilst the duration remained at 4 to 12 days, these conditions would not be changed. Officers were happy to work with the applicant to ensure the conditions were workable.

In response to queries from Councillor Mrs R Cheswright, the applicant confirmed that 8 car park marshals would be in place along with a traffic management plan. The applicant summarised the other precautions that would be in place to ensure a safe and well run festival.

All of the parties present for the hearing provided a final summary of their representations in respect of the application to vary the premises licence at Wilkestock.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Services Manager and the Democratic Services Officer to consider the evidence.

Following this, they returned and the Chairman stated that the Sub-Committee had listened to the comments of the applicant, objectors and Officers and had decided to approve the application, subject to conditions set by Environmental Health as detailed at pages 32 – 34 of the report now submitted, in order to address concerns relating to public nuisance.

The Chairman advised that the applicant was expected to liaise with residents and the applicant was also reminded that non-compliance with conditions might result in this case being brought back before this Sub-Committee for review.

RESOLVED – that the application to vary the Premises Licence at Wilkestock, 4 Acre Field, Watton at Stone, be approved, subject to conditions set by Environmental Health as detailed at pages 32 – 34 of the report now submitted, in order to address concerns relating to public nuisance.

The meeting closed at 4.05 pm

Chairman
Date

EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

6. REVIEW OF TAXI LICENSING CONDITIONS AND PROPOSED AMENDMENTS TO TAXI LICENSING POLICY

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To report to Members proposed amendments to taxi licensing policy, subject to consultation with the taxi trade and subsequent further consideration by this Committee.
- Delegation of non-statutory taxi licensing decisions to a Licensing Panel.
- To recommend changes to taxi licensing conditions, and to the Taxi Licensing Policy to incorporate these changes; and
- To recommend changes to the licence holder code of conduct and penalty points scheme.

<u>RECOMMENDATIONS FOR DECISION:</u> that	
(A)	Amendments to the Taxi Licensing Policy be approved; and
(B)	Amendments to the code of conduct and penalty points scheme be approved.

1.0 Background

1.1 The written statement of East Herts Council taxi licensing policy was agreed by Licensing Committee in July 2010 following consultation with the taxi trade. New handbooks were printed based on the policy, and the changes were brought into effect in 2011. Further amendments were agreed by Licensing Committee in November 2011

1.2 The statement of Taxi Licensing Policy helps ensure that decisions consistent with the policy could be successfully defended on appeal.

- 1.3 Major decisions on taxi licensing matters are currently taken by Licensing Sub-Committee, with some minor matters delegated to officers.
- 2.0 Report
- 2.1 The aim of local authority licensing is to protect the public; Department for Transport document 'Taxi and Private Hire Licensing: Best Practice Guidance' Section 3: (The Role of Licensing: Policy Justification) (paragraphs 7, 8 and 9).
- 2.2 The Guide highlights that Licensing requirements should not be unduly stringent or too restrictive while giving the public reasonable access to taxi and PHV services.
- 2.3 The Guide says, the public that use taxis should be confident that the driver does not have a criminal record for assault, and that the vehicle is safe.
- 2.4 In addition to public safety, the licensing authority may adopt such other principles as it sees fit for the basis of its licensing policy. Licensing Committee agreed in November 2010 to base the policy on the following principles;
- Protection of Public Safety
 - Protection and/or promotion of the Health, Safety, Comfort and Convenience of taxi passengers
 - Access to transport
 - Protection of the Environment
 - Promotion of a professional taxi trade
- 2.5 A table of proposed policy, noting proposed changes to existing conditions and practice is set out in **Essential Reference Paper 'B'**.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:

Draft Taxi Licensing Policy.

Selected Appendices (only where changes are introduced).

Contact Member: Councillor M Alexander – Executive Member for
Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and
Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager,
Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	Any changes to licensing conditions and to the taxi licensing policy will be subject to consultation with the taxi trade. The results of consultation will be reported to this committee for amendment or approval.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author. Powers delegated to a Licensing panel will negate the need for Licensing Sub Committees.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author. It is expected that changes can be managed from within existing resources.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

ESSENTIAL REFERENCE PAPER 'B'

<u>Change introduced by proposed Policy amendment</u>	<u>Existing requirement</u>
<u>Departure From Policy</u>	
Dual plating of vehicles to be available as a grandfather right only.	No dual plating of vehicles.
Where a driver holds a two part DVLA driving licence, the photo card part must be valid and in date before a taxi drivers licence will be granted or renewed.	Not stated.
Be less than 5 years of age and under 100,000 miles when first licensed, except for purpose built taxis, which will be licensed for the first time until they are 7 years old, provided they are under 140,000 miles. Except: If the vehicle is over the age limit but has been inspected by a council taxi licensing officer and issued with a certificate that it complies with the Vehicle visual standard before it is presented to a garage for a VCC inspection.	Be less than 5 years of age when first licensed, except for purpose built taxis, which will be licensed for the first time until they are 7 years old. Except: If the vehicle has been inspected by a council taxi licensing officer and issued with a certificate that it complies with the Vehicle visual standard before it is presented to a garage for a VCC inspection.
Vehicles will not be relicensed once they have exceeded 350,000 miles.	No current limitation.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

7. REPORT ON HOME OFFICE FEEDBACK TO CONSULTATION:
RELAXATION OF ALCOHOL LICENSING HOURS FOR THE QUEEN'S
DIAMOND JUBILEE ON FRIDAY 1 JUNE TO TUESDAY 5 JUNE 2012

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To inform members about feedback to Home Office Consultation on relaxation of licensing restrictions in alcohol licensed premises 1 to 5 June 2012.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The report be received.

1.0 Background

1.1 This report presents feedback on consultation on the proposed relaxation of licensing restrictions on 1 to 5 June 2012.

2.0 Report

2.1 The Home Office held a public consultation to seek the views of the public on whether the usual restrictions on alcohol licenses should be relaxed on evenings from Friday 1 June and Tuesday 5 June 2011, to facilitate extended public celebration of the Queen's Diamond Jubilee.

2.2 At Licensing Committee in November 2011, officers took note of Member's views, and subsequently submitted a consultation response.

2.3 The responses of all respondents have been collated by the Home Office, the results are presented with this report.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

3.2 Details relating to the Relaxation of Licensing Hours for the Queen's Diamond Jubilee can be seen in the Home Office Consultation responses included at **Essential Reference Paper B**.

Background Papers

None.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	Please see Background Paper.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer

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RELAXATION OF LICENSING HOURS FOR THE QUEEN'S DIAMOND JUBILEE: ANALYSIS OF CONSULTATION RESPONSES

January 2012



Home Office

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Relaxation of licensing hours for the Queen's Diamond Jubilee: Analysis of Consultation Responses

PROPOSAL

1. On 12 October 2011 the government published the consultation document, 'Relaxation of Licensing Hours the Queen's Diamond Jubilee' to make a licensing hours order under section 172 of the Licensing Act 2003 to mark the occasion of the Queen's Diamond Jubilee in June 2012.
2. The consultation ran for seven weeks, 12 October 2011 to 1 December 2011, and proposed that licensed hours are extended to 1am the following morning on two nights. Respondents were asked whether they preferred Friday, 1 June and Saturday, 2 June; or Sunday, 3 June and Monday, 4 June. The consultation proposed that the extended hours authorise the sale of alcohol for consumption on the premises; the provision of regulated entertainment; and the provision of late night refreshment in licensed premises. The consultation applied to England and Wales.

BACKGROUND

3. During the consultation process, people were invited to respond to the nine questions in the consultation document using either the online form or by submitting responses via post or email. The Home Office received a total of 211 responses to the consultation. Of these, 200 responses were submitted online; 11 were submitted in hardcopy.

RESPONSES TO SPECIFIC CONSULTATION QUESTIONS

4. Of the nine questions, only one asked for comments from the respondents. The key comments are highlighted in the analysis. The remainder of the questions either required a yes/no answer or asked respondents to choose a response. Responses to these questions are summarised below.

Question 1: Do you agree that the order should apply to England and Wales?

5. Of those who responded to the question 85% (150 respondents) agreed that the order should apply to all licensed premises in England and Wales. 15% (27 respondents) disagreed with this proposal. 34 respondents chose not to respond to this question.

Question 2: Do you agree that the order should extend licensing hours until 1am?

6. Of those who responded to the question 82% (143 respondents) agreed that the order should extend licensing hours until 1am. 18% (31 respondents) disagreed with this proposal. 36 respondents chose not to respond to this question.

Question 3: The order could cover any two nights, Friday 1 or Saturday 2 or Sunday 3 or Monday 4 June 2012. Which two nights would you prefer the order to cover?

7. 155 respondents to this question either chose one day or two days. Of those who responded, 28% agreed that this proposal should apply to Friday 1; 41% agreed that it should apply to Saturday 2; 20% agreed that it should apply to Sunday 3 and 10% agreed that this proposal should apply to Monday 4 June 2012. Some respondents chose not to respond to this question or chose more than two days so are not included in these figures.

Question 4: Do you agree that the order should apply to the sale of alcohol for consumption on the premises?

8. 84% (143 respondents) agreed that the order should apply to the sale of alcohol for consumption on the premises. 16% (27 respondents) disagreed with this proposal. 40 respondents chose not to respond to this question.

Question 5: Do you agree that the order should apply to the provision of regulated entertainment?

9. 84% (145 respondents) agreed that the order should apply to the provision of regulated entertainment whilst 15% (26 respondents) disagreed with this proposal. 39 respondents chose not to respond to this question.

Question 6: Do you agree that the order should apply to the provision of late night refreshment so that restaurants and pubs can continue to serve food until 1am?

10. 86% (148 respondents) agreed that the order should apply to the provision of late night refreshment so that restaurants and pubs can continue to serve food until 1am. 14% (24 respondents) disagreed with this proposal. 38 respondents chose not to respond to this question.

Question 7: Do you agree with the impact assessment?

11. 82% (135 respondents) agreed with the impact assessment and 18% (29 respondents) disagreed with the impact assessment. 46 respondents chose not to respond to this question.

Question 8: Compared with the usual level of crime and anti-social behaviour in your local area, do you think the extension of licensing hours for the Royal wedding on Friday 29 April and Saturday 30 April 2011 increased, decreased, or had no effect on the level of crime and anti-social behaviour in your local area on these nights?

12. 13% (21 respondents) reported an increase in crime and anti-social behaviour in their local area

on Friday 29 April and Saturday 30 April 2011; 7% (12 respondents) reported a decrease and 80% (131 respondents) no effect over the weekend of the Royal wedding. 47 respondents chose not to respond to this question.

13. Comments reflected concerns about people's health; anti-social behaviour; and police costs. Several commented that the Royal wedding had a great atmosphere in their local community and individuals could pace themselves.

Question 9: Please indicate in what capacity you are responding to this consultation.

14. 6% (10 respondents) indicated that they were responding to this consultation as a Police Officer; 16% (28 respondents) said they were responding as Licensing Officers; 9% (16 respondents) said they were from the Licensed Trade; 53% (93 respondents) were members of the public and 16% (28 respondents) recorded themselves as 'Other'. 35 respondents chose not to respond to this question.

Question 9a: In your experience, were additional police resources required for policing your local area as a result of the relaxation of licensing hours for the Royal wedding on the nights of 29 April and 30 April 2011?

15. Only 7 police officers responded to this question and four said additional police resources were required; one said existing resources were reprioritised and two said usual policing resources were sufficient. One of the respondents who replied in hardcopy selected all options on the grounds that the make-up of the night time economy differs between the different areas.

ADDITIONAL COMMENTS

In addition to the formal answers to the questions we also received a number of additional comments. These, for example:

- Welcomed the proposal and argued that we should embrace the celebrations;
- Argued that the extension should apply on all 4 days; and
- Argued that many pubs will already have existing later permissions for Friday



Home Office

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The consultation and this response to the consultation can be found on the Home Office website:

<http://www.homeoffice.gov.uk/publications/about-us/consultations/jubilee-licensing>

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

8. HOME OFFICE CONSULTATION ON SECONDARY LEGISLATION FOR EARLY MORNING RESTRICTION ORDERS AND THE LATE NIGHT LEVY

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To seek Members views for response to Home Office consultation on the secondary legislation to implement Early Morning Restriction Orders and Late Night Levy.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The draft response to the Home Office consultation be approved.

1.0 Background

- 1.1 The Home Office are consulting on proposals for secondary legislation to implement Early Morning Restriction Orders and the Late Night Levy.
- 1.2 Licensing Committee members are consulted for their views, and are invited to amend as they see fit, a draft response.

2.0 Report

2.2 The Home Office consultation seeks views on:

- Early Morning Restriction Orders;
- Categories of business that will be exempt;
- The process for adopting the Late Night Levy;
- Categories of business that may be exempted from paying the Late Night Levy;
- The kinds of services that Local Authorities may fund with its proportion of the income from the Late Night Levy.

- 2.3 A partial draft response is set out in **Essential Reference Paper 'B'**.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:

Home Office consultation, these documents follow on from **Essential Reference Paper B**.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report
Legal:	No issues have been identified by Contact Officer or Report Author that require approval.
Financial:	The Late Night Levy may provide an income stream to pay for Community Safety measures relevant to the Late Night Economy, e.g. taxi marshals, cctv, and other measures.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

Yes

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

No

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

Disagree. Some Town Centre Hotels also provide bar and nightclub facilities to non-members, and would gain an unfair advantage over other bars and nightclubs.

Agree that the other categories of premises apart from Hotels should be exempt from EMROS.

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

No

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

Yes, this could be done by a similar process to an application for a Review.

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

Agree. This allows the Licensing Authority the flexibility to respond to the local premises profile.

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

Agree.

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

Yes. There is no commercial profit from which the Levy could be paid.

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

Agree.

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

Yes, in Business Improvement Districts.

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?
Disagree, these schemes are intended to ensure the licensing objectives are upheld, and they should be implemented as needed, not in response to a financial incentive.

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

Taxi Marshalling

Street Marshalling

CCTV

Drug swabbing in licensed premises

Licensing inspection and enforcement activities

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

Should extend to managing the night time economy.

CONSULTATION QUESTION 17:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 18:

If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 19:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

(Depends on the closing hours set).

**DEALING WITH THE
PROBLEMS OF LATE
NIGHT DRINKING**
A CONSULTATION
ON SECONDARY
LEGISLATION FOR
THE LATE NIGHT LEVY
AND EARLY MORNING
RESTRICTION ORDERS



Home Office

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MINISTERIAL FOREWARD



I believe that problems in the night-time economy should be addressed locally. The Government is committed to ensuring that the police and local authorities are given the right tools to address the alcohol-related problems in their area, whilst promoting a vibrant night-time economy to benefit business and the community that they serve. The late night levy and the extension of Early Morning Restriction Orders (“EMROs”) will enable local authorities to achieve this. If local communities are concerned about premises that are open into the early hours of the morning and causing problems, then they should be able to respond flexibly. The majority (64%) of all violence occurs in the evening or at night and one-fifth of all violent incidents take place in or around a pub or club. By extending EMROs so that they can be applied from midnight, local authorities will have an additional tool to address problem areas in the night time economy.

Where there is a vibrant late night economy, with premises remaining open into the early hours, then the local authority should have the flexibility to charge for a contribution towards any additional policing that this generates. Tax payers should not simply be left to pick up this cost. People who enjoy a night out often visit a variety of premises and it is appropriate that the costs are shared between these businesses.

This consultation seeks views on the details of the regulations that will implement these policies. In particular, it asks for views on what categories of premises should enjoy exemptions and reductions under both measures. For example, I do not wish to unfairly penalise premises which are not part of the wider late night economy. These include, for example, hotels and B&Bs which serve only to guests, and the consultation therefore proposes these as one of the categories of exemption from both measures.

I would very much welcome views on these and other proposals on how the late night levy and EMROs will be implemented. Overall, our intention is that both measures will empower local communities to act to achieve a more viable night time economy.

A handwritten signature in black ink, appearing to read 'Henley', written in a cursive style.

Lord Henley

Minister of State for Crime Prevention and Antisocial Behaviour Reduction

1. INTRODUCTION

- 1.01 This consultation is about two measures in the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) that will be implemented through regulations: Early Morning Restriction Orders (“EMROs”) and the late night levy (“the levy”).
- 1.02 Alcohol-related crime and disorder is a serious problem for many of our communities. The promised “café-culture” from later drinking hours has not materialised. In 2010/11, almost one million violent crimes were alcohol-related and almost half of surveyed violent crime victims believed the offender to be under the influence of alcohol. The police are fighting an expensive battle against alcohol-related crime and disorder. The Coalition Programme for Government recognised these problems and contained a set of commitments to tackle alcohol misuse, especially late at night. The necessary changes to primary legislation have been made through the 2011 Act.
- 1.03 EMROs will help licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. An EMRO is a power introduced by the previous Government (which has not yet been commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days. The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. However, we believe that some types of premises should not be subject to an EMRO. Section 4 of this consultation considers exemptions to the EMRO power that will apply to all EMROs.
- 1.04 The levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether to adopt for their areas. The licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night. Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy.
- 1.05 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. Section 6 of this consultation considers the available categories of premises to which exemptions and reductions will apply. The government is also keen to promote local and business-led initiatives. Many businesses successfully work together in schemes like Best Bar None, Business Improvement Districts (BIDs) and Community Alcohol Partnerships. Authorities and business communities might wish to consider these schemes as possible alternatives or complements to EMROs or the levy. Section 6 also considers this issue.
- 1.06 To inform this consultation, working groups and meetings were held with representatives from the police, the licensed trade, best-practice schemes, licensing authorities and the hospitality industry.
- 1.07 A consultation-stage Impact Assessment is attached to this consultation. This will be updated following the consultation if necessary.

2. ABOUT THIS CONSULTATION

Scope of the consultation

Topic of this consultation:	<p>This consultation seeks views on certain aspects of EMROs and the late night levy.</p> <p>EMROs</p> <ul style="list-style-type: none">• Process of adopting an EMRO.• Categories of business which will be exempt from any EMRO. <p>Late night levy</p> <ul style="list-style-type: none">• Process of adopting the levy.• Categories of business which individual licensing authorities may choose to exempt from, or afford a reduction in relation to, the late night levy.• The kinds of services a licensing authority may fund with the 30% of net levy receipts it may retain from the net levy revenue.
Scope of this consultation:	<p>Regulations will be made under powers in the 2011 Act and Licensing Act 2003 in relation to the late night levy and EMROs. The Government intends to commence both powers, but would like to hear views on the above and on the impact assessment before preparing the regulations.</p>
Geographical scope:	<p>England and Wales</p>
Impact assessment (IA):	<p>A consultation stage IA is included with the consultation document. A small firm impact test is included</p>

Basic Information

To:	We are keen to hear from everyone who will be affected by the two measures, including; members of the public to whom alcohol is supplied; those affected by alcohol-related crime; those that own or work in pubs, clubs, supermarkets and shops; best practice scheme representatives; criminal justice agencies; licensing authorities; and trade associations representing those who sell alcohol.
Duration:	The consultation runs for 12 weeks from 17th January to 10th April.
Enquiries:	Alcohol.Consultation@homeoffice.gsi.gov.uk
How to respond:	Information on how to respond to this consultation can be found on the Home Office Website at http://www.homeoffice.gov.uk/about-us/consultations . Responses can be submitted online through the Home Office website or by post by sending responses to: Home Office Drugs and Alcohol Unit 4th Floor Fry Building 2 Marsham Street London, SW1P 4DF
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Getting to this stage:	The two powers were consulted on as part of the ‘Rebalancing the Licensing Act’ consultation (Summer 2010) and introduced in the Police Reform and Social Responsibility Act (September 2011).
Previous engagement:	The government has already consulted a number of key partners prior to publishing this consultation. As well as engagement as part of the ‘Rebalancing the Licensing Act’ consultation, officials have held pre-consultation working groups with stakeholders from the on and off trade; police and local authorities; best practice schemes and the voluntary sector.

PART 1 EARLY MORNING RESTRICTION ORDERS

3. PROCESS

3.01 The 2011 Act allows an EMRO to be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities can apply these orders to areas where they consider that restricting the late night supply of alcohol is appropriate to promote the licensing objectives. Before this power is commenced, regulations must be made.

3.02 The regulations will prescribe details of the process for making an EMRO and the kinds of premises that will be exempt from an EMRO. Consultation respondents are asked to consider the proposed process map in Annex A.

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

Yes

No

Don't know

If no, please explain what else is needed

4. EXEMPTIONS TO EMROS

4.01 EMROs are designed to address recurring problems with alcohol-related crime and disorder in specific areas. The licensing authority will be able to decide during which hours the EMRO will apply, whether it is applied every day or on particular days; whether it will run for a limited or unlimited period; and whether it will apply to whole or part of the licensing authority's area. In each case, the decision will be based on what is appropriate for the promotion of the licensing objectives¹. There are some types of premises

¹ Licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

which should not be subject to an EMRO, wherever it is applied. Some businesses, wherever they may be located, do not contribute to alcohol-related crime and disorder. For example, a hotel may only serve alcohol to its guests who are staying overnight. As such, the 2011 Act enables the Secretary of State to make regulations which prescribe exemptions to an EMRO by reference to particular kinds of premises or particular days.

4.02 Many licences have additional authorisations on New Year's Eve to stay open later than usual. The government proposes that EMROs will not apply between midnight on 31st December and 6am on 1st January of each year.

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

Yes – the EMRO should apply on New Year's Eve

No – the EMRO should not apply on New Year's Eve

Neither agree nor disagree

Don't know

Please give reasons for your answer

4.03 Local discretion in setting the EMRO area is paramount, and the intention is to have only a few nationally prescribed exemptions. Some premises may need to vary their licence (to, for example, add a condition via the minor variations process) before an exemption is applicable to them.

4.04 EMROs will operate to restrict alcohol sales even when a Temporary Event Notice (TEN) is otherwise in effect. Section 172 of the Licensing Act 2003 enables the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. Primary legislation includes

provision that, unless the licensing hours order provides otherwise, the EMRO will not be effective to prevent alcohol sales in a period to which the extended hours order applies.

relevant period will be members or their guests; or those who stay overnight; or those who attend for a performance. We also propose that there is an exemption for community premises which have demonstrated that they do not need a Designated Premises Supervisor (DPS). We propose that the following exemptions will apply to every EMRO:

4.05 The proposed exemptions cover some types of premises where the only customers during the

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Community premises	Those premises that have successfully applied to remove the mandatory DPS requirement.
Casinos and bingo halls with a membership scheme	Premises licensed to provide these facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

- Agree – these categories of premises should be exempt from EMROs
- Disagree – these categories of premises should not be exempt from EMROs
- Neither agree nor disagree
- Don't know

Please give reasons for your answer, specifying any exemptions that you disagree with

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

- Yes
- No
- Don't know

If yes, please specify which other types of premises and give reasons.

PART 2 THE LATE NIGHT LEVY

5. PROCESS

- 5.01 The levy will allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off-trade), throughout the licensing authority's area, which are authorised to sell or supply alcohol in the time period set by the licensing authority. This can be any time between midnight and 6am. Section 172 of the Licensing Act 2003 permits the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. The Government intends to ensure that this will not result in some premises inadvertently becoming liable to pay the late night levy. The levy will not apply to TENs. The 2011 Act makes provision for the Government to prepare draft regulations before the levy scheme is commenced.
- 5.02 Regulations will prescribe details of the process for adopting the late night levy. Consultation respondents are asked to consider the proposed process maps in Annex B.
- 5.03 Prior to making a decision to implement the levy, it is intended that the licensing authority will have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce the levy in its area. If so, the licensing authority must formally consult the PCC, the police, licence holders and others about its decision to introduce the levy. The consultation should ask whether it needs to apply any exemptions or discounts to the levy and how it will apportion net levy revenue between the police and licensing authority. The licensing authority will have the final decision in all of these areas.

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

- Yes
- No
- Don't know

If yes, do you have any suggestions on how this process should operate?

6. EXEMPTIONS AND REDUCTIONS TO THE LEVY

- 6.01 There are some types of premises which licensing authorities may consider should not make a contribution towards late night police costs through the late night levy. To enable local discretion, the levy will allow licensing authorities to select exemptions or reductions that they consider should apply in their area. It is proposed that the following types of business are available as exemptions for licensing authorities to adopt:

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Restaurants	<p>Premises that have condition(s) on their licence that have the effect of making clear their status as restaurants run on a permanent, more formal basis. These could, for example, include conditions which require that, between midnight and 6am:</p> <ul style="list-style-type: none"> (i) customers are shown to their table; (ii) food is provided in the form of substantial table meals that are served and consumed at the table; (iii) premises primarily serve meals to those eating on them, and (iv) alcohol is not be supplied to, or consumed on the premises by, any person other than those who are taking substantial table meals and where the consumption of alcohol by such persons is ancillary to taking such meals.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Casinos Bingo Halls	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
Community Amateur Sports Clubs (CASCs)	Those premises that have a relief from business rates by virtue of being a CASC (definition found in Schedule 18 of the Finance Act 2002.)
Community premises	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

Agree
Disagree

Please give reasons for your answer, specifying any exemptions that you disagree with

Business Improvement Districts

6.02 Business Improvement Districts (BIDs, established under the Local Government Act 2003) are a defined area within which businesses pay a fee in order to fund improvements within their boundaries and can prove valuable to business communities. An increasing number of late night or licensed trade BIDs are being established. Some of these schemes may fulfil the purpose of the levy, by raising contributions towards late night services, without the need for local authority intervention. These schemes should be actively encouraged. It is proposed that licensing authorities are able to grant an exemption to those paying a levy as part of a BID where the authority is satisfied that the aims meet a satisfactory crime and disorder focus.

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

Agree – licensing authorities should be able to exempt Business Improvements Districts
Disagree – licensing authorities should not be able to exempt Business Improvement Districts
Neither agree nor disagree
Don't know

Members' clubs

6.03 Many private members' clubs operate under 'Club Premises Certificates' (CPCs). Alcohol cannot generally be supplied under a CPC for profit or to the general public. Some licensing authorities may consider that private member's clubs in their area should not make a contribution to late night enforcement costs. Should clubs be exempt from the late night levy, the police revenue in the average licensing authority area from the levy will be reduced by approximately 10%.

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

Yes
No
Don't know

Please give reasons for your answer

Small Business Rate Relief

6.04 Small Business Rate Relief offers business ratepayers that meet certain criteria the opportunity to receive reductions on their rates bills. The criteria vary slightly in England and Wales but, in general, businesses are typically eligible if they occupy only one property and their rateable value is below a certain level. This may apply, for example, to small local pubs.

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

Please give reasons for your answer

New Year's Eve

- 6.05 Some premises may have a one-off late night authorisation on their licence to celebrate the New Year. On the one hand, it could be argued that the ability to host one-off special occasions will not be hindered by the late night levy. Before the levy begins in any area, premises will be able to make a free minor variation to their licence to reduce their hours. On special occasions, they may use a TEN to authorise the sale of alcohol.
- 6.06 On the other hand, an exemption for those premises whose only late night authorisation is for New Year will benefit many premises.

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

- Agree – there should be an exemption for New Year's Eve
- Disagree - there should not be an exemption for New Year's Eve
- Neither agree nor disagree
- Don't know

Reductions for best practice schemes

- 6.07 Licensing authorities may also wish to use the late night levy to promote and support participation in other business-led best practice schemes. These schemes encourage businesses to join together to address some of the negative effects of selling alcohol. The following schemes are recommended as available reduction categories:

Members of a locally accredited Best Bar None scheme
Members of a locally accredited Pubwatch, Clubwatch or Shopwatch scheme. The discount can only apply to one of the above three schemes. Criteria to be an applicable pubwatch scheme: <ul style="list-style-type: none"> • The local authority is satisfied that the scheme has clear aims and objectives which are subject to a formal statement of intent or a constitution and that it has demonstrated that its members are actively working to reduce crime and disorder. • Membership is open to all licensed premises within the geographic area. • The scheme has a Chair person and/or Coordinator who is responsible for maintaining verifiable records of membership.
Those premises which pay an annual individual contribution to a Community Alcohol Partnership in their area. This definition does not include subsidiaries of companies that pay a contribution on a national level.
Premises that pay a levy in a Business Improvement District (established under the Local Government Act 2003) where the authority is satisfied that the aims meet a satisfactory crime and disorder focus

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Other local best-practice schemes

6.08 The best practice schemes referred to in Question 11 are locally accredited schemes that are part of a national network. It has been suggested that some schemes have been created locally without any national accreditation. Groups of businesses may join together and fund late night services or address specific community problems. Regulations could grant licensing authorities the power to give discounts to schemes that they recognise as effective. Schemes would have to meet readily recognised and measurable benchmarks in order to be capable of qualifying for a discount.

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

6.09 We propose that there is a 10% discount to the levy for every relevant best practice scheme (up to a maximum of 30%). This is in recognition that many businesses are members of multiple schemes.

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

6.10 There may be other types of premises that should not be required to contribute fully towards the levy, for example, community-run pubs or others with an established community and social character.

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

- Yes
- No

If yes, please state what you think these should be and how this type of premises should be defined.

7. LICENSING AUTHORITY LEVY REVENUE

7.01 There are many different types of local authority-funded services which make the late night economy a more welcoming place to do business. Some examples include taxi marshals, late night town wardens and street cleaning services. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. This section considers whether there should be any restrictions on how authorities spend this money.

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

Restrictions on funded activities

7.02 It is intended that the proportion of net levy revenue retained by licensing authorities (a

maximum of 30%) is used to fund services which tackle alcohol-related crime and disorder, such as taxi marshalling and ‘booze buses’ that provide assistance to those who otherwise might become victims or offenders. This would not extend to the wider management of the night time economy. For example, it would include the clean-up of the after-effects of alcohol-related crime and disorder, such as broken glass and public urination, but not general clean-up activities, such as the collection of waste from outside fast food restaurants

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

Please state whether you think the types of services should be limited to preventing and tackling alcohol related crime and disorder; or should extend to both preventing and tackling alcohol related crime and disorder and management of night time economy?

8. IMPACT ASSESSMENT

8.01 An Impact Assessment for late night levy secondary legislation is attached. Consultation respondents are encouraged to comment on this document.

CONSULTATION QUESTION 17:

If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 18:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

9. ABOUT YOU

9.01 Please indicate in what capacity you are responding to this consultation:

Licensing authority
Member of the public
Police officer
Person involved in licensed trade/club premises
Other please specify

Police officers only: Which Police Force are you from?

9.02 Licensed trade only: Please tick one of the following boxes which would best describe you/ your organisation

Individual
Members’ Clubs
Micro company (1 – 9 employees)
Small business (10-49 employees)
Small – medium enterprise (50-249 employees)
Large company (over 250 employees)

Licensing officer only: Which Licensing Authority are you from?

Member of the public/Other only: Which Local Authority or London Borough are you from?

10. CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under

the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

GOVERNMENT CODE OF PRACTICE ON CONSULTATION

The Consultation follows the Government's Code of Practice on Consultation the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office consultation co-ordinator, Adam Mcardle. Please DO NOT send your response to this consultation to Adam Mcardle. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation. The co-ordinator can be emailed at: Adam.Mcardle2@homeoffice.gsi.gov.uk or alternatively you can write to him at:

Adam Mcardle, Consultation Coordinator
Home Office
Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

11. CHECKLIST

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 17:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 18:

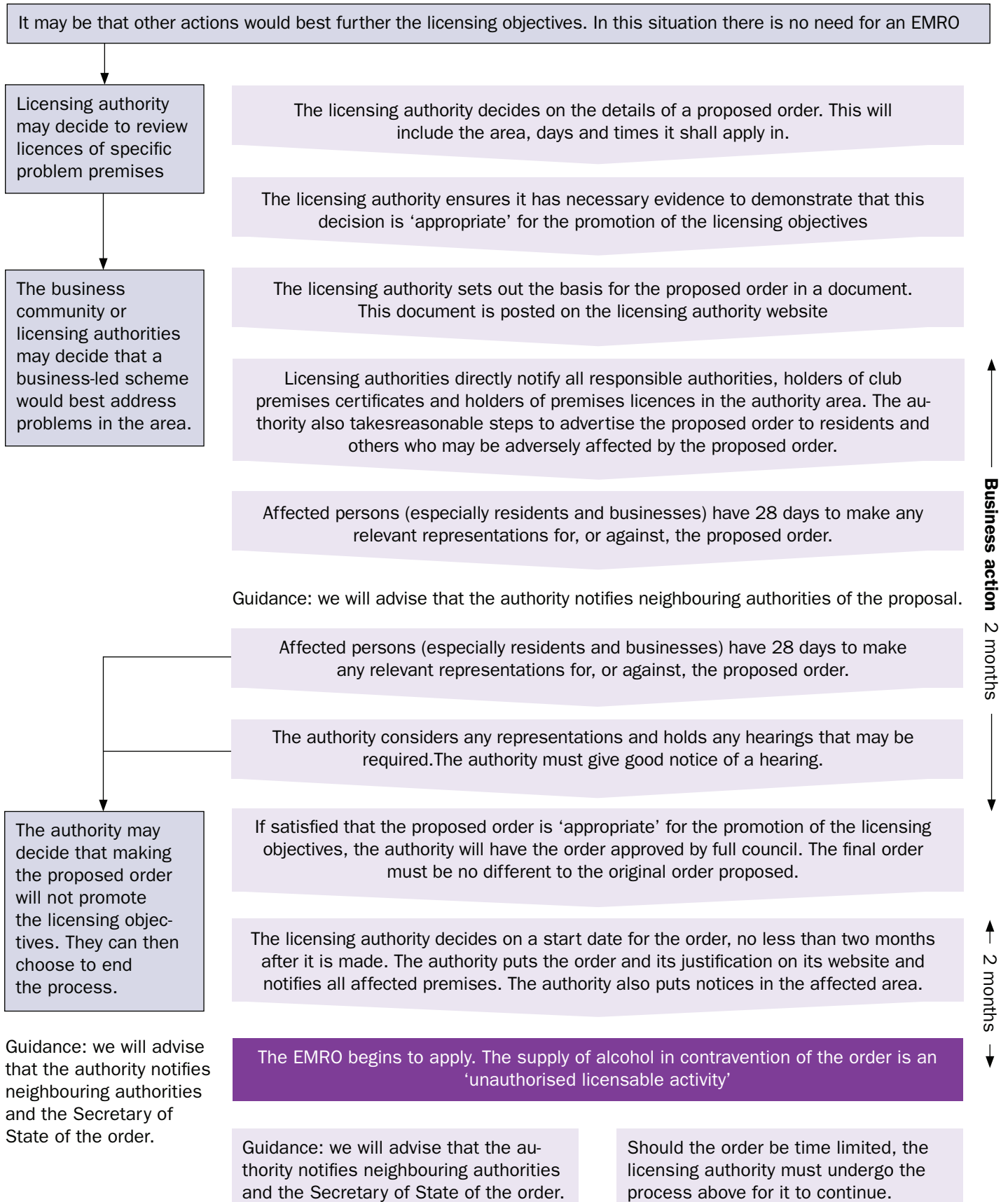
If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 19:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

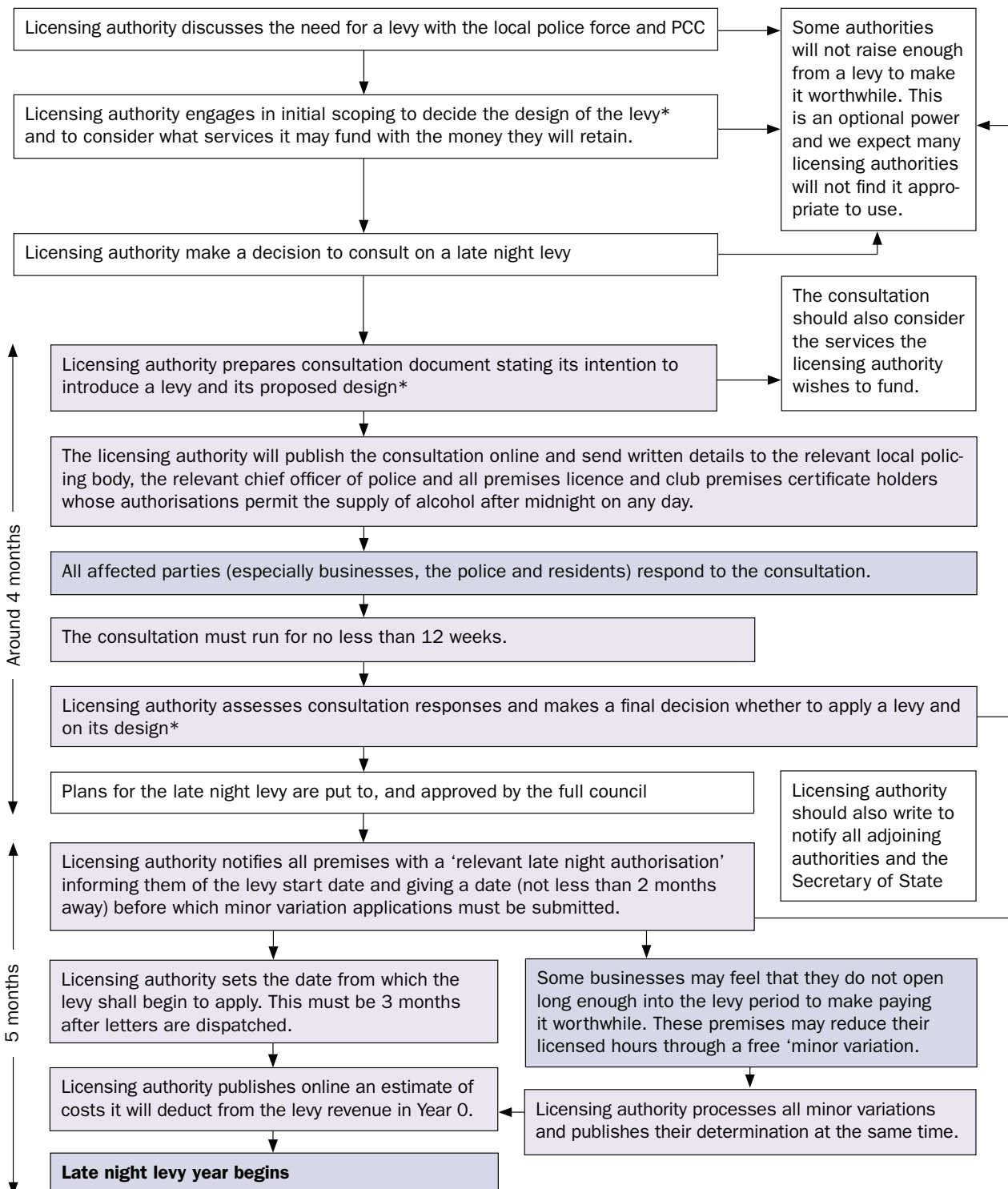
ANNEX A - EMRO PROCESS MAP

A situation arises where there is need to restrict the late night supply of alcohol in a particular area. The licensing authority can decide, possibly at the suggestion of the public or the PCC, to make an EMRO.

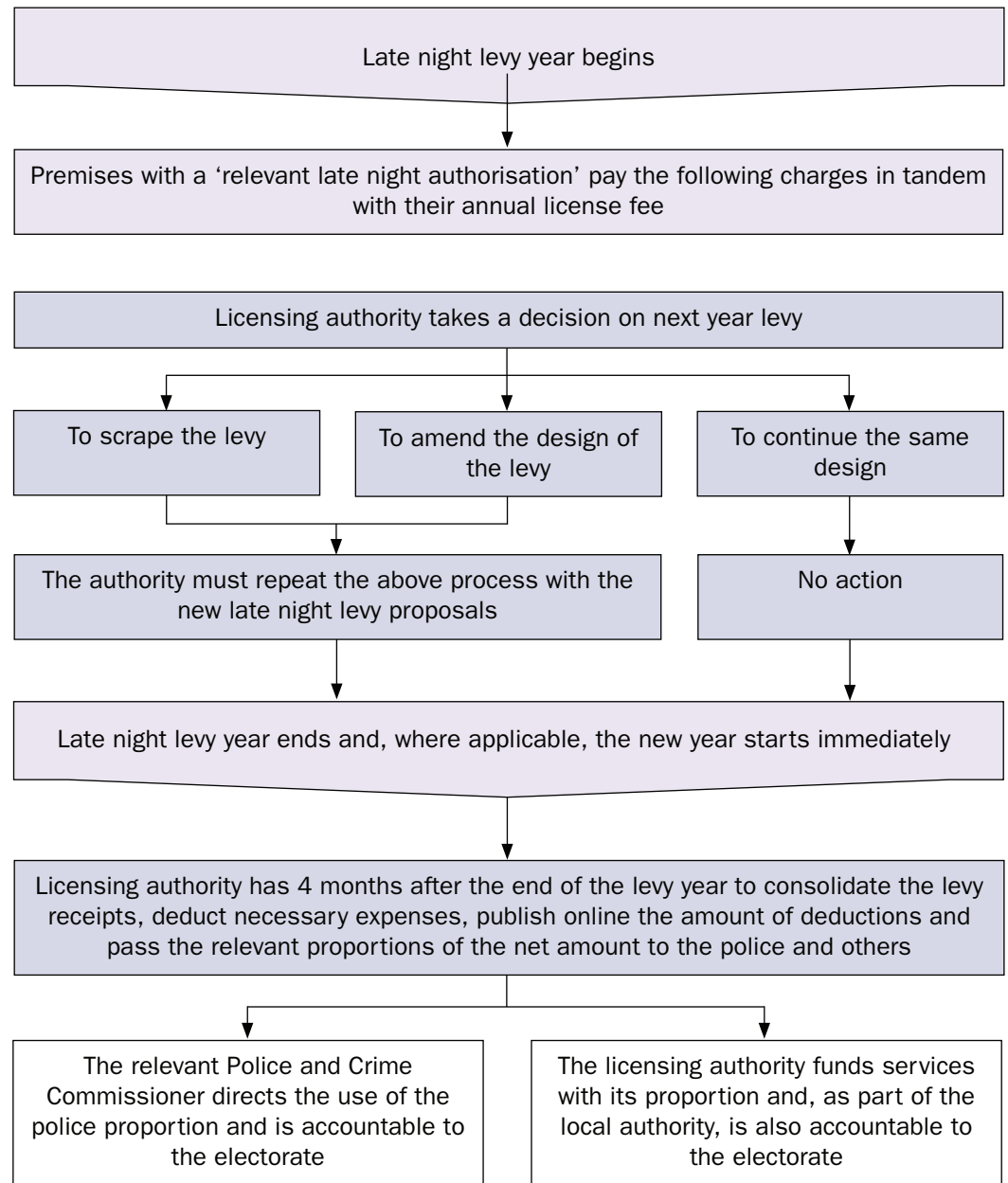


ANNEX B - LATE NIGHT LEVY PROCESS MAPS - (Part I - Introduction)

Essential processes which will be deductible from levy revenue	<p>'late night supply period'- This is the time period where the levy applies. The licensing authority chooses this period but it must be within the window of midnight and 6am.</p> <p>'relevant late night authorisation'- a licence or certificate which permits the supply of alcohol within the 'late night supply period'</p>
Key stages for business	<p>*The levy design - is the licensing authority's choice of the 'late night supply period', any exemptions or reductions that apply and the proportion of the revenue (after administrative costs are deducted) which the licensing authority wishes to keep to fund other activities (max 30%).</p>



ANNEX B - LATE NIGHT LEVY PROCESS MAPS CONTINUED - (Part II - Levy year)





Home Office

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<http://www.homeoffice.gov.uk/about-us/consultations/late-night-drinking>

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Title: Dealing with the problems of late night drinking - secondary legislation consultation Lead department or agency: Home Office Other departments or agencies: None.	Impact Assessment (IA)
	IA No: HO
	Date: 24/08/2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Carla Giudice Carla.Giudice@homeoffice.gsi.gov.uk	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Alcohol related crime and disorder carries a large cost to the taxpayer and community. The Police Reform and Social Responsibility Bill recently introduced two measures which specifically relate to alcohol sales in the late night economy. The late night levy and Early Morning Restriction Orders (EMROs) are two very distinct measures. The late night levy (Part 2, Chapter 2) was created to help local areas collect a contribution towards the large police costs of maintaining a safe late night economy. EMROs (clause 119) are designed as a tool to address specific pockets of late night alcohol related crime and disorder. Government intervention is now necessary to make good regulations on various aspects of the policies and to commence the powers. This is a consultation-stage impact assessment.

What are the policy objectives and the intended effects?

Late night levy secondary legislation:

- make good provision for licensing authority discretion over which categories of business can be provided with an exemption or reduction to the levy.
- to use this provision to allow authorities to encourage participation in business-led best practice schemes.
- to set a proportionate levy charge and help us define the late night services that may be funded by licensing authorities.

EMRO secondary legislation - to ensure the effect of the EMRO does not apply to certain types of business, wherever it may be placed.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

This document accompanies a consultation on regulations for existing policies. The default is that we introduce these regulations; the options relate to what they contain. The government recognises it is always an option not to commence existing powers. This forms options 1 and A. Option 2 and Option B are to commence the late night levy and EMRO powers, similar to how they stand in primary legislation, with no provision for exemptions and reductions (levy) or exemptions (EMROs). Option 3 (preferred) is to allow licensing authorities to introduce a late night levy as set out in the consultation document (with suggested available exemption and reduction categories and allowing licensing authorities to fund activities that tackle the impact of the supply of alcohol late at night). Option C (preferred) is to allow licensing authorities to use EMROs, subject to some set exemptions. N.B. The levy and EMROs fulfilled two very different needs for government intervention. As such, we have not assessed the impact of one and not the other.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 6/2017

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Date: **Page 83**

Summary: Analysis and Evidence

Policy Option 3C (preferred)

Description:

A late night levy (3) and EMROs (C) both as set out in consultation document (preferred)

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -53.0	High: -11.6	Best Estimate: -53.02

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	1	0	0
High	0.4		18.2	157.0
Best Estimate	0.4		18.2	157.0

Description and scale of key monetised costs by 'main affected groups'

(3) Transition costs - some premises may amend licence to fit exemption category - £0.37m. Ongoing cost - holders of 'relevant late night authorisation' bear annual cost equal to their levy charge. Premises which avoid the levy will bear loss of business up to the level of the levy charge (assumption: profit minus levy charge is greater than or equal to 0) - annual average £18.2m, (PV £157.0m). The low estimate assumes levy is not adopted by any licensing authorities.

Other key non-monetised costs by 'main affected groups'

(C) Under EMROs, affected businesses will bear a cost of reduced income from alcohol sales. It is not possible to estimate the cost burden of these changes because, as explained in the Evidence Base, too many of the variables are unknown.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	1	0	0
High	16.1		17.0	145.4
Best Estimate	11.2		12.2	104.0

Description and scale of key monetised benefits by 'main affected groups'

(3) Monetised benefit is the money raised from the levy minus administration costs. Low estimate is where no licensing authorities adopt the levy. High estimate assumes all liable premises pay the levy. Best estimate assumes some premises change their licensed hours to avoid the levy - £12.2m annual average (PV £104.0m). The police benefit will be 70-100% of this total monetised benefit. Local authority funded services will receive the remainder.

Other key non-monetised benefits by 'main affected groups'

(3) Exemptions or reductions may result in enhanced take-up of business-led best practice schemes. Local services (police and licensing authority-funded) will have more resources to allocate in line with local priorities - benefit to the taxpayer and local community. (C) Reduction in alcohol-related crime and disorder; and anti-social behaviour (including reduced costs to police, local councils, and businesses). (3) and (C) - Business should benefit from a safer late night environment.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

This is a consultation stage impact assessment. We ask respondents to provide any further evidence. For (3) we use an 'average licensing authority scenario' to estimate impact. Assumptions summarised in Table 8.2. (C) The EMRO has many unknown variables, as detailed below, and we assume that they will only be adopted where local licensing authorities believe the loss of business is worth the reduction in alcohol related crime. Both policies are optional local powers. As such, their impact will be considered before licensing authorities decide on their adoption. **EMROs (C) are in scope for OIOO.** We have not monetised the impact of EMROs, but for the purposes of OIOO, the analysis estimates the direct impact on business to be **£-5.6m (Equivalent Annual)**. The levy is out of scope and the 'Direct impact' box below is only option 3.

Direct impact on business (Equivalent Annual) £m): Option 3			In scope of OIOO?	Measure qualifies as
Costs: 18.9	Benefits: 0	Net: -18.9	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			Depends on clearances		
Which organisation(s) will enforce the policy?			LAs and police		
What is the annual change in enforcement cost (£m)?			Negligible		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: 0	Non-traded: 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A		Benefits: N/A
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro N/A	< 20 N/A	Small 8	Medium 50	Large 42
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	34
Small firms Small Firms Impact Test guidance	Yes	32
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence

Policy Option 2B

Description:

Late night levy without exemptions or reductions (2) and EMROs without exemptions (B)

Price Base Year 2009	PV Base Year 2011	Time Period Years 2010	Net Benefit (Present Value (PV)) (£m)		
			Low: -64.6	High: -9.51	Best Estimate: -64.6

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0	0
High	0		25	215.2
Best Estimate	0		25	215.2

Description and scale of key monetised costs by 'main affected groups'

(2) Ongoing cost - holders of 'relevant late night authorisation' bear annual cost equal to their levy charge. Premises which avoid the levy will bear loss of business up to the level of the levy charge (assumption: profit minus levy charge is greater than or equal to 0) Annual Average £25m, (PV £215.2m). The low estimate assumes levy is not adopted.

Other key non-monetised costs by 'main affected groups'

(2) Hospitality industry bears cost in this option (compared to option 3).
(B) Under EMROs, affected businesses will bear a cost from reduced income from alcohol sales. It is not possible to estimate the cost burden of these changes because, as explained in the appraisal, too many of the variables are unknown.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0	0
High	23.1		24.0	205.7
Best Estimate	16.7		17.6	150.6

Description and scale of key monetised benefits by 'main affected groups'

(2) Monetised benefit is the money raised from the levy minus administration costs. Low estimate is where no licensing authorities adopt the levy. High estimate assumes all liable premises pay the levy. Best estimate assumes some premises change their licensed hours to avoid the levy - £17.6m annual average (PV £150.6m). The police benefit will be 70-100% of this total monetised benefit. Local authority funded services will receive the remainder.

Other key non-monetised benefits by 'main affected groups'

(2) Local services (police and licensing authority-funded) will have more resources to allocate in line with local priorities - benefit to the taxpayer and local community. (B) - Reduction in alcohol-related crime and disorder; and anti-social behaviour (including reduced costs to police, local councils, and businesses). Both (2) and (B) - Business will benefit from a safer late night environment.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

This is a consultation stage impact assessment. We ask respondents to provide any further evidence. For (2) we use an 'average licensing authority scenario' to estimate impact. Assumptions summarised in Table 8.2. (B) The EMRO has many unknown variables, as detailed below, and we assume that they will only be adopted where local licensing authorities believe the loss of business is worth the reduction in alcohol related crime. Both policies are optional local powers. As such, their impact will be considered before licensing authorities decide on their adoption. **EMROs (B) are in scope for OIOO.** We have not monetised the impact of EMROs, but for the purposes of OIOO, the analysis estimates the direct impact on business to be **£-5.6m (Equivalent Annual)**. The levy is out of scope and the 'Direct impact' box below is only option 2.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 25.9	Benefits: 0	Net: -25.9	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			Depends on clearances		
Which organisation(s) will enforce the policy?			LAs and police		
What is the annual change in enforcement cost (£m)?			Negligible		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: 0	Non-traded: 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro N/A	< 20 N/A	Small 8	Medium 50	Large 42
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
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Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	34
Small firms Small Firms Impact Test guidance	Yes	32
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Police Reform and Social Responsibility Bill Alcohol Provisions Impact Assessment http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary
2	“DCMS Statistical Bulletin – Alcohol, Entertainment and Late Night Refreshment Licensing England and Wales, April 2008 – March 2009” http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/reference_library/publications/6387.aspx
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0.37	0	0	0	0	0	0	0	0	0
Annual recurring cost	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2
Total annual costs	18.6	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4
Total annual benefits	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The late night levy (1,2,3)

Alcohol related crime and disorder carries a large cost to the police. A recent survey estimated that 15% of violent crime occurs after midnight (British Crime Survey, 2010¹). However, police costs in connection to the late night supply of alcohol are not limited to work late at night. Police representatives have told us that they must carry out follow-up investigations, arrange for custody etc. Furthermore, in almost half of all violent incidents, the victim believed the offender to be under the influence of alcohol². The costs of dealing with these incidents are dealt with by the police. 38 police authorities were recently asked about overtime arrangements. 22 respondents noted the night time economy as a major cause of their overtime payments³. Currently these costs are mostly borne by the taxpayer. As most of these costs are a result of the supply of alcohol late at night, those who profit from this activity should make a greater contribution.

In response to these costs, the coalition Government's 'Programme for Government' committed to allow local authorities to charge more for late night licences to help pay for policing. After considering options in the 'Rebalancing the Licensing Act' consultation, **the Police Reform and Social Responsibility Bill introduced the 'late night levy'**. This is a local tax raising power for local authorities in their capacity as a licensing authority. The licensing authority will, having regard the costs of policing late night alcohol related crime and disorder, consider the desirability of raising revenue in their area through a levy. Should they decide to adopt the levy, they will also decide the time period on every night when the levy shall apply. This can be at any time beginning on or after midnight and ending on or before 6am. Premises which are licensed to sell alcohol within this period shall pay an annual contribution when they pay their licence fee.

Once the levy receipts have been collected, licensing authorities will deduct the costs they incur in administering and introducing the scheme. Following this deduction, at least 70% of the net amount must be passed to the police. The remainder will be kept by the licensing authority to fund late night services. This impact assessment will assume that the revenue is split exactly 70:30. This will be assumption **A7** and used below.

Among other things, primary legislation has made provision for regulations to specify:

- what services a licensing authority may fund with any money they retain from the levy
- the level of the levy charge
- what exemption or reduction categories of premises may be available for licensing authorities to adopt.

This impact assessment accompanies a consultation which will help the government make these regulations. The rationale for the late night levy was considered in the impact assessment for the Police Reform and Social Responsibility Bill <http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>. This IA focuses more on the impact of the changes through regulations, but still provides some analysis of the general impact of the levy.

Early Morning Restriction Orders (A,B,C)

We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy late night economy to benefit business and the community that they serve.

¹ *Crime in England and Wales 2009/10*, Home Office Statistical Bulletin 09/10

² *Crime in England and Wales 2009/10*, Home Office Statistical Bulletin 09/10

³ Understanding Overtime in the Police Service, February 2010 <http://library.npia.police.uk/docs/homeoffice/police-overtime.pdf>

The Early Morning Restriction Order was an uncommenced power within the Licensing Act 2003 that would allow licensing authorities to restrict sales of alcohol in the whole or a part of their areas between 3am and 6am if they consider this appropriate for the promotion of the licensing objectives. This applies to premises licences, club premises certificates and temporary event notices. In 2010 the Government consulted on extending and commencing the power to allow licensing authorities to apply it flexibly from midnight to 6am. This proposal received widespread support with many residents and resident groups informing us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. These changes were made in the Police Reform and Social Responsibility Bill.

Some respondents to the consultation agreed that the Government should exempt some types of business from the effects of an Early Morning Restriction Order on the basis that they are not a cause of alcohol related crime and disorder. Primary legislation has made provision for regulations to specify these types of business.

Again, the EMRO powers were considered in the Impact Assessment for the Police Reform and Social Responsibility Bill (<http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>). This impact assessment accompanies a consultation which will help the government make regulations relating to exemption, but still provides some analysis of the general impact of EMROs.

A.2 Groups Affected

By secondary legislation (2,3,B,C):

Those premises eligible for an exemption, where the levy is applied, will need to pursue the exemption with the relevant licensing authority. They may need to amend their licence to meet the criteria of the applicable category. This will incur a minimal cost and it is reflected in this Impact Assessment.

In areas which adopt the late night levy (2,3):

Participants in the late night economy, local residents and businesses, where the levy is applied, stand to benefit from the levy as a result of a better funded local police force and local authority services.

Any business with a permanent authorisation to sell alcohol within the 'late night supply period', designated by the licensing authority, will be affected by the late night levy. The supply of alcohol is authorised on a permanent basis by 'premises licences' and 'club premises certificates'.

Licensing authorities which choose to adopt the levy will be affected, but they will be able to deduct the costs they incur in establishing and administering the levy. They will benefit from increased revenue to fund late night services (up to 30% of net levy receipts – see 'Background')

In areas which adopt an EMRO (B,C) :

Participants in the late night economy, local residents and businesses, where an EMRO is applied, stand to benefit from a safer late night economy.

Any business selling alcohol in an EMRO area at the relevant times, where an EMRO is applied, will no longer be allowed to sell alcohol at that time.

Licensing authorities which choose to use an EMRO will incur a small administrative cost in applying the power. Licensing authorities receive income through licence fees for the costs they incur in discharging their duties under the Licensing Act 2003.

The police, where an EMRO or the levy is applied, will bear a cost inasmuch as their participation in the licensing authority decision to adopt the levy or an EMRO. They will benefit from increased revenue (minimum of 70% of net levy receipts – see ‘Background’). They will bear a cost in enforcing an EMRO.

Late night alcohol buyers (customers) and other late night businesses may be affected by a constrained choice of alcohol retailers and a change in the nature of the late night economy. This is unlikely for two reasons: 1. The levy charge is proportional to size of business and, as such, we only expect a small proportion of businesses to reduce their licensed hours to avoid the levy. 2. We have suggested provision under option 3 to exempt those country premises, within designated rural settlements with fewer than 3,000 residents, which serve as the ‘last’ public house in a village. This will help ensure that the levy does not risk closing down the only choice of premises.

A.3 Consultation

Within Government

Cabinet committee clearances were gained for the original consultation and policies as introduced in the Police Reform and Social Responsibility Bill. These clearances include official and ministerial level discussions with other Government departments, including Business, Innovation and Skills, Her Majesty’s Treasury, The Department for Culture, Media and Sport, and the Department for Communities and Local Government.

Public Consultation

The late night levy and EMROs were first consulted on as part of the public consultation on ‘Rebalancing the Licensing Act’ ahead of the introduction of the Police Reform and Social Responsibility Bill. The Bill has received public scrutiny by Members of Parliament and the House of Lords. This Impact Assessment has been created in advance of a public consultation on forming aspects of secondary legislation.

To assist with the effective design of our consultation, officials held meetings with representatives from the licensed trade, licensing authorities, the police and best practice schemes.

B. Rationale

Overall rationale for the two policies was considered in advance of laying primary legislation. Please see the Police Reform and Social Responsibility Bill Impact Assessment⁴. The late night levy is needed to address some of the high costs of policing late at night. The aim of the levy, as a whole, is to raise money for the police. Early Morning Restriction Orders will help licensing authorities to target specific pockets of alcohol related crime and disorder in their areas.

This impact assessment considers regulations to existing powers. Below is the rationale for these provisions:

The late night levy exemptions and reductions (2,3)

It may be that some businesses should not pay a full contribution towards the high costs resulting from the late night supply of alcohol. This impact assessment accompanies a consultation that proposes allowing licensing authorities to grant exemptions or reductions to all businesses in their area that fall into certain categories of premises. Exemptions and reductions categories will be applied at the discretion of a local licensing authority. As mentioned above, the levy must be simple for licensing authorities to introduce and administer. As such, categories will be prescribed in regulations. Licensing authorities will not need to justify the payment or non-payment of the levy by each individual business. Finally, categories will also need to be simple to interpret and apply to businesses.

⁴ <http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>

Our proposed exemption and reduction categories have been designed to encapsulate three types of situation:

- Licensing authorities may feel that some types of businesses should not make a contribution to the police costs in connection with the late night supply of alcohol. Examples of these businesses include hotels, restaurants and those Bed and Breakfasts with a licence to sell alcohol. These businesses can hold late night licenses but only serve to guests or those that eat a table meal.
- The Government understands that many late opening businesses already work together, and make a financial contribution, to address some of the negative effects of the late night supply of alcohol. The government would like to use the levy as an opportunity to show its support for these schemes. Therefore, these premises should be given a reduction to the levy.
- The Government has been made aware that many premises only have one late night licence, permitting them to sell alcohol on New Year's Eve. Without an exemption for these premises, there is likely to be a large administrative burden for licensing authorities and small businesses. All these premises must reduce the hours on their licence and then apply for a Temporary Event Notice.

These exemptions and reductions will also serve to minimise the burden of the levy on business.

Use of the late night levy revenue

The police are not the only body that incur great costs in dealing with the effects of the late night supply of alcohol. Although the Government is committed to funding late night policing, primary legislation has allowed licensing authorities to retain up to 30% of the net levy revenue. The Government has stated its intention for this money to be directed at services such as taxi marshals and late night wardens. This consultation will consider what other services local authorities may wish to fund with their retained proportion.

The late night levy charge

The consultation sets out the underlying principles when setting the level of the late night levy charge. The Government believes that it must be set a proportionate and fair burden on business. Table 2 below states our indicative levy charges. The average charge has been calculated below as around £800. This is a reasonable amount to pay in light of the police costs incurred late at night.

Early Morning Restriction Orders (B,C)

Some respondents to our consultation highlighted the importance of primary legislation provision for certain types of business to be exempt from Early Morning Restriction Orders. The government has announced its intentions to include exemptions for premises that generally operate responsibly and do not contribute to alcohol related crime and disorder and public nuisance late at night. These businesses should not be affected by the order, wherever they are placed. This consultation shall seek views on what types of business do not cause alcohol related crime and disorder and which exemptions should be available.

C. Objectives

The key objectives of **late night levy regulations** are:

- To grant local discretion to licensing authorities in deciding which categories of business should make a contribution to the late night levy in their area.
- To encourage participation in best practice schemes. A positive outcome of this regime would be the flourishing of community action amongst the licensed trade.
- To allow licensing authorities to reduce the burden of the levy on businesses such as hotels, community premises and theatres, should they feel it appropriate in their area
- To allow licensing authorities to remove the burden of licence variations and Temporary Event Notices around New Years Eve.

- To set an appropriate charge and make well-designed provisions for adopting the levy and passing on the raised funds to local services.

The objectives of **EMRO regulations** are:

- To ensure an EMRO does not apply to certain types of business,
- To make well-designed provision for the process of adopting/amending/scrapping an EMRO.

After regulations have been made (following the consultation) the late night levy policy (**as a whole**) will have a number of successful outcomes. First and foremost, the police will be provided further resources. They can then direct these resources in line with local priorities. Second, licensing authorities may have more money to provide vital services such as taxi marshals, town wardens or street cleaning. Third, the Government hopes that the levy will strengthen partnerships between licensing authorities and the police. The two partners should work together to best allocate the funds in line with the nature of the local late night economy.

EMROs will provide licensing authorities with an additional tool to shape and determine local licensing. As a result of an EMRO, specific problem areas and problem times will see a reduction in alcohol related crime and disorder.

D. Options

This document accompanies a consultation on regulations for existing policies. The default is that we introduce these regulations; the options relate to what they contain. The government recognises it is always an option not to commence existing powers. This forms **options 1 and A**.

Option 2 and Option B are to commence the late night levy and EMRO powers, similar to how they stand in primary legislation, with no provision for exemptions and reductions (levy) or exemptions (EMROs).

Option 3 (preferred) is to allow licensing authorities to introduce a late night levy as set out in the consultation document (with suggested available exemption and reduction categories and allowing licensing authorities to fund activities that tackle the impact of the supply of alcohol late at night).

Option C (preferred) is to allow licensing authorities to use EMROs, subject to some set exemptions.

N.B. The late night levy and EMROs fulfil two very different needs for government intervention; we are not choosing between the two. As such, we have not assessed the impact of one and not the other.

E. Appraisal (Costs and Benefits)

General Assumptions and Data

The end of this section contains a summary of the key assumptions and figures.

The specific costs and benefits of the late night levy are dependant on how many licensing authorities adopt it. No licensing authority is the same and the amount of money raised from the levy will differ depending on the number of payers and the rateable value band of the premises. We have created an 'average licensing authority scenario' for the purposes of this impact assessment. To gain a picture of the national impact we then need to make a prediction of how many licensing authorities will adopt the levy. We do not expect this to be all licensing authorities. Smaller, more rural areas, for example, will not raise enough from a late night levy to make it worthwhile. The Impact Assessment for the Police Reform and Social Responsibility Bill estimated that 94 licensing authorities will raise enough from the levy to make collecting it worthwhile. We have used this as an upper estimate for national impact (**henceforth A8**).

To generate the 'average licensing authority' scenario, we took a snapshot of the 100 largest licensing authorities with available data.

Table 1 - Licences in force on 31 March 2010 by licensing authority area (DCMS Licensing Statistics)⁵

Premises Licence			Club Premises Certificates		Total alcohol authorisations
On-sales or supply of alcohol only	Off-sales of alcohol only	Both on and off sales or supply of alcohol	On-sales or supply of alcohol only	Both on and off sales or supply of alcohol	
19,955	25,758	40,418	3,440	3,626	93,197

In these 100 authorities there was an average of 932 premises with alcohol permissions (total authorisations divided by 100).

Premises with a 'relevant late night authorisation' in the average licensing authority

Licensing authorities can choose the 'late night supply period' that shall apply in their area. This can be any time within the parameters of midnight and 6am. This impact assessment assumes that every licensing authority, that adopts the levy, chooses to apply the levy with a from midnight to 6am. This will give us an upper estimate of the costs/benefits. To gain an idea of the proportion of premises that open into this levy period, the Home Office bought data from 'CGA Strategy Ltd' in August 2010 which suggested that 33.4% of on-trade premises hold a licence to sell alcohol after midnight (**henceforth A1**). Raw data cannot be shared. These data also cover a number of other types of business (e.g. hotels) and is also referenced in table 4. We will assume that off-trade premises will have the same late night permissions. We thus come to an average licensing authority scenario with 33.4% of 932 = 311 late opening premises (**henceforth A2**).

We plan to link the levy charge to licence fee bands. We used a calculation based on the principle of the number of police hours per week that are required as a result of premises opening beyond midnight. This was not intended to provide an accurate assessment of how much the late night economy costs police forces, but provided a means for calculating an appropriate levy charge based around the principle of police resources being used as a result of premises opening late. Most importantly, as explained in the 'Rationale' above, this charge must be a proportionate and fair burden on business. The prospective charges are as follows:

Table 2 – Proposed levy charges

Licence fee band	A	B	C	D	Dx*	E	Ex*
Rateable value ⁶	£0 - £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000		£125,001 and above	
Existing annual licence fee	£70	£180	£295	£320	£640	£350	£1,050
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440
*(Dx and Ex) Multiplier applies to premises in category D and E that primarily or exclusively sell alcohol							

To calculate the amount raised by the levy, we will need to know the band of the premises in the average licensing authority scenario. Data with rateable value band breakdowns are not available for 2010(*As such, table 1 and 3 do not match in 'total authorisations'). Using the largest 100 licensing authorities (with available data) in 2009, we estimated the average breakdown of premises by licence fee band. Note that this data contains those with other authorisations (i.e. entertainment). We assume that the breakdown is similar for those with only alcohol permissions.

Table 3 – Proportions of premises in each licence fee band

⁵ The sale of alcohol is licensed through 'premises licences' and 'club premises certificates'. An 'on' licence is for consumption on the premises and an 'off' licence is for consumption off the premises. Both kinds of authorisation to sell alcohol will be affected by the late night levy.

⁶ Rateable value is a national standard set by the Valuation Office Agency. More information is found at this link: http://www.valuation-ua.gov.uk/rli/static/HelpPages/English/faqs/faq116-what_does_rv_mean.html

	Totals	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Number with no fee applicable/ fee band unknown
Premises Licences	92,648	21,085	48,468	12,531	2,683	387	6,645	499	4,656 (a)
Club premises certificates	6,453	1,645	4,269	387	44	0	108	0	22 (b)
Total authorisations with known fee band	94,423 * (-a and b)	22,730	52,737	12,918	2,727	387	6,753	499	
% of premises in each band in 'average licensing authority scenario' (Henceforth A3)		24.07%	55.85%	13.68%	2.89%	0.41%	7.15%	0.53%	

Throughout this Impact Assessment we will apply the above percentages to the average licensing authority scenario. This will help us generate an accurate representation of the number of relevant premises in each band. When applying these percentages we have consistently rounded up. This is important to ensure that some band Dx and Ex premises are recorded (i.e. in table 10, 0.41% of 102 is 0.41; thus we round to 1). This has been applied consistently to both cost and benefit calculations. By rounding we also guard against inaccurate representations by dividing premises (e.g. 80% of a premises cannot pay a levy).

Premises choosing to avoid the levy

Some premises may feel that they do not make enough money from opening in the levy period to make paying it worthwhile. These premises will make a free minor variation to their licensed hours. These premises are covered when discussing 'costs' because we make the assumption that no premises will reduce their hours should profit minus the levy charge be greater than or equal to zero (**henceforth A5**). To calculate a lower estimate of benefits of the levy, we will need to estimate the amount of premises that make this change. Following feedback we have received from the public consultation⁷ and our discussions with stakeholders we feel it is reasonable to use the estimate of 25% of premises that currently open late in an area that operates the late night levy (**henceforth A6**).

Exemptions and reductions (as consulted on)

The consultation document (which this IA accompanies) has suggested a number of possible exemption and reduction categories for the levy. To estimate costs and benefits, we will need to estimate the number of premises which fall into these categories within the 'average licensing authority scenario'. For most of the estimates below, we are unable to distinguish between those with and without an alcohol licence. We have further broken the data down to estimate how many have a licence to sell alcohol beyond midnight.

Table 4 - Suggested exemption categories

Proposed category	Source of data used to estimate the number in category in the average licensing authority scenario	Estimated number in category in England and Wales	Estimated proportion with a late night authorisation to sell alcohol (and source of data)	Estimated number liable to levy across England and Wales (348 licensing authorities).	Number in average licensing authority scenario
Premises with	"UK Business: Activity, Size and Location 2010" from National	7,665	37.3% (In dataset as A1)	2,859	9

⁷ For more information on the consultation: <http://www.homeoffice.gov.uk/drugs/alcohol/rebalancing-consultation/>

overnight accommodation	Statistics. Table B3.4 estimates the number of VAT and/or PAYE based enterprises in all industries across the United Kingdom by 2010 Standard Industrial Classification (UKSIC (2007)) Class by Government Office Region. We did not use DCMS 24 hour licensing statistics. After discussions with the British Hospitality Association we concluded that this number did not represent all those hotels with a late night licence.				
Bingo Halls	The Bingo Association provided figures based on their membership. This does not include the 'gala bingo' chain.	187	33.4% (all premises average from A1)	62	1
Casinos	The National Casino Industry Forum (NCiF) provided figures based on their membership and those licensed under the Gambling Act 2005.	132	98% (114 of 116 NCiF members)	130	1
Theatres and cinemas	The Society of London Theatre and Theatrical Management Association provided a survey of their members on how many stayed open late. Arts Council England provided figures on the number of premises in England.	843	60% (Proportion of members with late night authorisations)	506	2
Restaurants	"UK Business: Activity, Size and Location 2010" from National Statistics. Table B3.4 estimates the number of VAT and/or PAYE based enterprises in all industries across the United Kingdom by 2010 Standard Industrial Classification (UKSIC(2007)) Class by Government Office Region.	54365	22.80% (In dataset as A1)	12,395	36
Community premises	DCMS Licensing Statistics show that 243 have applied for the DPS exemption under the 2009 regulations. With the EMROs and the levy potentially using this as an exemption category, we can use the estimate of 4,000 premises that were likely to be affected in the 2009 "Impact Assessment of the proposal to remove the requirements for a Designated Premises Supervisor and personal licence holder for community premises)".	4000	33.4% (all premises average from A1)	1,336	4
Community Amateur Sports Club	Estimated by "CASCinfo"	6,000	33.4% (all premises average from A1)	2,004	6
Last retail outlets in rural	Although we plan to make provision for these businesses, it remains as a safeguard. We have not factored in any examples of these premises in the 'average licensing authority scenario'. This is for three reasons:				0

settlements with a population of less than 3,000	<p>1) We do not expect for areas with a high proportion of rural businesses to apply the levy.</p> <p>2) We do not expect many of these premises to hold licences after midnight.</p> <p>3) Premises in this category must be in Band A or B. They will, most likely, be in Band A. As such, the deduction of cost will be £299 per premises. This will make a very small impact on the monetised calculations below.</p>	
New Years	Please see comments below	
Total		59

Table 5 - Suggested reduction categories

Name of scheme where members should have reduced rate	Source of data used to estimate the number in category in the average licensing authority scenario	Number in 'average licensing authority scenario'
Business Improvement District, or Purple flag area	These three schemes are most likely to include premises in a small city centre area. There is only likely to be one of these in one licensing authority area. Leeds licensing authority has advised us of West Yorkshire Police's 'Operation Capital Scheme' which involves around 20 city centre premises. We shall use this as the basis for our estimation	20
Special licensing authority approved scheme		
Best Bar None	We have taken a sample amount from the website of the Sheffield Best Bar None scheme. At the time of drafting, this scheme had 47 accredited members.	47
Pubwatch, Clubwatch, Shopwatch, CAPs and others	It is difficult to estimate the number of premises in these categories. Some schemes may also derive most of their funding from national bodies, and thus may not pass on the reduction. We shall use an estimate of 20 premises with a 30% discount. This has the same impact as 40 premises with a 15% discount.	20
Total		87

Reduction given to above categories

Throughout this impact assessment we have used a reduction of 30% for all 87 premises (**henceforth A4**). There are two reasons for this:

1. The consultation document proposes either a total discount of 30% or cumulative discounts of 10% up to a maximum of 30%. In the second case, we shall assume that premises see the benefits of joining three schemes and that they claim the full discount.
2. The consultation document proposes Business Improvement Districts (BIDs) as a possible exemption category. Local authorities generally support and promote BIDs in their area. BID payers already pay a substantial contribution to measures which improve the area. As such, we doubt that many licensing authorities with a successful BID will adopt the levy. This means an assumption of 20 exempted BID premises in the average licensing authority scenario will skew the estimates of costs and benefits.

New Year's exemption category

We plan to make an available exemption category which covers those businesses with one annual late night authorisation to sell alcohol, occurring on New Years Eve. We do not think it is a viable option to omit this exemption category. This is because of the number of premises with this item on their licence. Should the category not exist, the majority of on-trade licensed premises will have to submit a free minor variation to their licence and will have to apply for a Temporary Event Notice in the run up to New Year. This will be a large burden on both licensing authorities and businesses. As such, the impact of this exemption is assumed to be equal to the baseline and not assessed below (i.e. premises with this one authorisation, in every option, will not pay the levy).

Licensing Authority Administrative Expenses

This impact assessment estimates the cost for licensing authorities to run the levy. These estimates have been derived from discussions with licensing authority representatives.

We have made estimates of administrative costs in order to work out examples of how the levy money shall be spent (please see tables 11 and 14).

There may be other costs in administering the levy, such as sending out a levy invoice, but these processes will be done in tandem with the existing licence fee regime and will not constitute a new cost. The costs we estimate are only new costs.

The following calculations are based on two key costs:

1. One hour of an administrative officer's time (including overheads) - £28. This estimate was provided by a licensing authority partner.
2. The cost of processing a minor variation of licence to avoid the levy - £38.43. This estimate is based on the formula used for setting the minor variation fee of £89. We have deducted the costs of the processes that will be omitted when a) all minor variation applications have the same intent and; b) applications are processed en masse.

In the table below we have estimated the number of hours needed for each process. These estimates are based on discussions with licensing authorities. These are indicative estimates and feedback from consultation respondents will be welcomed.

Tables 6 and 7 – Processes when introducing the levy (one-off)

	Process	Hours	Cost to licensing authority (hours x £28)
A	Sifting and licences to determine liability for levy	50	£1,400
B	Preparation of consultation	35	£980
C	Writing to all licensees, councillors, responsible authorities and interested parties. The hours of time in this process account for the costs of postage.	40	£1,120
D	Analysis of consultation responses	35	£980
E	Preparation for committee	30	£840
F	Report to cabinet	20	£560
G	Writing to all liable premises	20	£560
H	Option 3 only - Processing exemptions and reductions	40	£1,120

	Option 2 (I)	Option 3 (J)
Number of minor variations made to avoid levy	78 (see para. above table 10)	63 (see table 9.1)
Cost of making these variations (number of variations x £38.43)	£2,998	£2,421

As such, total transitional costs:

Option 2 = A to G (not H) and I: £9,438

Option 3 = A to H and J: £9,981

Table 8 – Processes when running the levy (ongoing)

	Process	Hours of time	Cost to licensing authority
A	Sifting any licences to check for any changes in liability	20	£560
B	Option 3 only) Ensuring reduction categories up to date	40	£1,120

C	Collection (with licence fee)	150	£4,200
D	Enforcement (with licence fee)	150	£4,200
E	Miscellaneous admin	100	£2,800
	Total ongoing cost option 2 (A-E minus B)	-	£11,760
	Total ongoing cost option 3 (A-E)	-	£12,880

Licence Trade Legal Fees

Trade groups have raised the legal fees for businesses which may be incurred by premises wishing to avoid/gain exemption or reduction to the levy. Throughout this impact assessment it is assumed that the legal fees will not be higher than the charge a premises wishes to avoid. As such, this burden on business is completely covered in this Impact Assessment.

Distribution of monetised costs by business size

Premises with alcohol permissions are divided into the rateable value bands in table 2. 'Small business rate relief' uses £6,000 or below as a 'small business' which receives full rate relief. Band B has a broad range of rateable values and captures 56% of levy payers. On this basis we shall use Band A as 'small', band B 'medium' and C-E as 'large'.

Using the analysis below, this table estimates the distribution under options 2 and 3.

Table 8.1 – Distribution of costs by size of business

	Small (Band A)	Medium (Band B)	Large (Bands C-E)
Option 2			
Maximum cost per band (from table 9)	£22,425	£133,632	£110,878
Percentage of total payers in each category	24%	56%	30%
Percentage of total costs borne by each category	8%	50%	42%
Option 3			
Maximum cost per band (from table 9)	£16,355	£96,998	£80,582
Percentage of total payers in each category	24%	56%	30%
Percentage of total costs borne by each category	8%	50%	42%

Both measures

This impact assessment assumes that licensing authority decisions are rational, procedurally fair, non discriminatory, ECHR compliant etc. There should be no legal fee burden for licensing authorities who adopt the levy or EMROs should they follow the procedures that will be set out in primary and secondary legislation.

Both these measures mean that alcohol will still be available and sales in the national economy, as a whole, will be largely unaffected.

This impact assessment also assumes, for the purposes of making estimates, that all licensing authorities that adopt the measure do so from Y0. They will be local powers and licensing authorities will be able to adopt them at any time.

Enforcement

Both options 2B and 3C do not have any significant increase in enforcement costs. The late night levy can be collected alongside the annual licence fee and contain negligible new costs.

EMROs may result in an increased enforcement cost as both licensing authorities and the police will need to ensure that premises are not contravening the order. However, the increased enforcement cost is likely to be outweighed by the reductions in enforcement costs resulting from the reduction in late night crime. This calculation will be made by the local licensing authority and police force in deciding whether to make an order.

Table 8.2 - The following were explained in this section (this table serves as a reference):

A1	The percentage of premises in average licensing authority open past midnight	Average of 33.4%
A2	The number of premises in the average licensing authority scenario	311
A3	The split of premises in the average licensing authority scenario by licence fee bands	In table 3
A4	The amount of reduction to the levy to be assumed in this Impact Assessment	30%
A5	No premises will change hours given that (profit – levy charge ≥ 0)	-
A6	Amount of premises that may change their licence to avoid the levy	25%
A7	(Detailed above) That the licensing authority will split the net levy revenue by the minimum requirement of primary legislation (70% to police and 30% to other services).	-
A8	The maximum number of licensing authorities that will raise enough from the levy to make collecting it worthwhile	94

Analysis of different options

Analysis shall be carried out in the order: Option 3, Option 2, Option B and C, Option 1 and A.

Option 3 – a late night levy as designed in the consultation document

A late night levy will be a power of taxation. As such it is 'out of scope' for the purposes of one in one out.

Costs (excluding OIOO)

Levy payers will not receive added costs from the late night levy beyond the charge itself. Payment will be in tandem with the current annual licence fee. As such, holders of a 'relevant late night authorisation' will bear an **ongoing** annual cost as specified in Table 2 above.

Premises which decide to avoid the levy will bear the cost of loss of business up to the level of the levy charge (**under assumption A5**).

Our estimates (above Table 4) suggest that 59 premises in the average licensing authority scenario will be exempted from paying the levy. As a result, the costs in this scenario will be shared, to different extents, by 311 (as **A2**) minus 59 = 252 premises. Table 5 suggests that 87 will be eligible for a reduction. We will assume that all reductions are 30% of the applicable levy charge (as **A4**).

As such, the maximum cost to business will be:

Table 9 - Cost to business from late night levy option 3

256 premises after 59 exemptions. 87 reductions.	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
% per band (using A3)	24.07%	55.85%	13.68%	2.89%	0.41%	7.15%	0.53%	-
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	-
Number eligible to 30% discount	21	49	12	3	0	6	0	91
Number eligible for full fee	40	92	23	5	1	12	1	174
Total cost to business	£16,355	£96,998	£39,533	£9,692	£2,730	£24,187	£4,440	£193,934

The sum of premises in rows 4 and 5 amounts to 265 not 256. This is because we have consistently rounded percentages and numbers to ensure that premises in band Ex and Dx are accounted for. We have rounded down for the discount column so that 2 Ex and Dx premises are not recorded.

As a result, the maximum cost to business in the average licensing authority scenario will be £193,934 multiplied by the number of licensing authorities that adopt the levy. Using 94 (A8), the cost is estimated as:

Annual Average: £18.2m

Present Value: £156.7m

Administrative Burdens (excluding OIOO)

Some premises may be eligible for an exemption, but need to have specific conditions on their licence to fall within the category (see consultation document). To put new conditions on the licence, a premises must submit an £89 'minor variation' application. Here we must return to the 'average licensing authority scenario'. In this scenario 59 premises will be eligible for an exemption to the levy.

Following discussions with our stakeholders, we must assume that the majority of premises in table 4 will not have the relevant conditions on their licence. However, stakeholders have also informed us that many premises still do (these conditions remain from old Licensing Act 1964 licences). On this basis, we will assume that 75% of the 59 eligible premises have to add conditions to their licence. Because of the small cost of making a minor variation, the difference in using different assumptions is very small. On the basis of this assumption, there will be an administrative burden of £3,916 ($£89 \times (0.75 \times 59)$) per licensing authority and £0.4m nationally. This is a one-off transitional cost.

Should there be an administrative burden on businesses that wish to avoid the levy, we can assume this will not be greater than the potential charge they wish to avoid (as **A5**). As such, the impact is encapsulated in the 'costs' calculations above.

Further administrative burdens are borne by the licensing authority. These were estimated in **tables 6, 7 and 8**, above as:

Y0 (table 6 and 7 transitional costs + table 8 administrative costs)	£22,016
Y1 – Y9 (just table 8 administrative costs)	£12,880

All of this cost is absorbed by the late night levy revenue. As such, it is not listed as a 'cost'.

Costs (OIOO) and Administrative Burdens (OIOO)

N/A

TOTAL COSTS

The total cost will be entirely borne by business. The figure we have calculated above includes those that lose business from avoiding the levy – it is thus our 'best estimate'. The best lower estimate for cost is provided by the scenario that no licensing authority adopts the late night levy ('0').

As such, the total cost is:

Annual Average: £0 - £18.2m

Present Value (includes Y0 transition): £0 - £157.0m

Benefits (excluding OIOO)

An **upper estimate** of benefit of the levy will be the money raised, should all premises in the average licensing authority scenario pay, minus the costs of administering the levy.

It may not be worthwhile for some premises to pay the levy. To gain a **best estimate** of the benefits we use **A6** (above) and estimate that 25% of late night licence holders (that are not exempt) will make a variation to their licence to avoid the levy. This reduces the number of levy payers from 189 to 102 (less 87).

Number of premises opening late in average licensing authority scenario	311
Exempted premises	59
Those liable for the levy after exemptions (table 4)	252
Number of premises avoiding the levy (assuming 25% change licence)	63
Those eligible for a 30% (A4) reduction (table 5)	87
Premises liable for full charge	102

Table 10 – Money raised from those premises that do not change their hours

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier
% per band (as A3)	24.07%	55.85%	13.68%	2.88%	0.41%	7.15%	0.52%
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440
Number eligible to 30% discount	21	49	12	3	0	6	0
Number of full payers	25	57	14	3	1	8	1
Total money raised	£11,870	£70,118	£28,202	£6,962	£2,730	£18,215	£4,440

The sum of premises in rows 4 and 5 amounts to 200 not 189. This is because we have rounded percentages and numbers to ensure that premises in band Dx are accounted for.

Using this table, the average charge for a full levy payer will be £845.

On this basis, the best estimate of the money raised from the levy will be £142,536 p.a. per licensing authority. On a national level, this equates to:

Annual Average: £13.4m

Present Value: £115.3m

Row 4 in the table below gives us **high and best estimates** of the net benefits in Y0 (taking out administrative expenses). Row 5 gives this estimate for Y1-9.

The levy is an optional power. The **low estimate** assumes that no licensing authority adopts the power. The net benefit will thus be '0'.

Rows 7-10 estimates how this benefit may be used (using the assumption A7)

Table 11 – Spending of the levy revenue (Option 3)

		Best estimate		Upper estimate	
		Average licensing authority	England and Wales (as A8)	Average licensing authority	England and Wales (as A8)
1	Total raised by late night levy (table 10)	£142,536	£13.4m	£193,934	£18.2m
2	Y0 transitional expenses (tables 6 and 7)	£9,981	N/A	£9,981	N/A
3	Ongoing administrative expenses p.a. (table 8)	£12,880	N/A	£12,880	N/A
4	Y0 net levy revenue (1 minus 2 minus 3)	£119,675	£11.2m	£171,073	£16.0m
5	Y1-9 p.a. net levy revenue (1 minus 3)	£129,656	£12.2m	£181,054	£17.0m
6	Present values (as A8)	£104.0m		£145.4m	
Split of net levy revenue (using A7)					
7	Y0 to police	£83,773	£7,874,615	£119,751	£11,256,603
8	Y1-9 to police	£90,759	£8,531,365	£126,738	£11,913,353
9	Y0 to licensing authority services	£35,903	£3,374,835	£51,322	£4,824,259
10	Y1-9 to licensing authority services	£38,897	£3,656,299	£54,316	£5,105,723

The benefit of the levy is that the police are better funded and the taxpayer's burden of the costs is reduced. According to the table above, using A8 (94 authorities adopt the levy), the police nationally stand to raise around £8.5-11.9m p.a. This would achieve the overall objective of raising money for the police.

Indirectly there is benefit in the form of services that are provided with the money calculated above. This will depend on the licensing authority area that adopts the levy.

Benefits from additional revenue for police activity

The levy revenue will be passed to the local police authority to spend in line with local priorities. We cannot monetise the societal benefit resulting from the better funded police force. We are committed to giving operational independence to locally accountable police forces. On this basis, the following description of where money could be spent is provided just as an example. There are broadly two ways the police can spend their income; providing new services, or helping to pay for existing operations.

In the scenario in table 11, the police (in one area) will stand to raise between £84-120k per annum. To give a better idea of what this means, discussions with the police suggest that an average constable costs around £30 per hour (including overheads). This figure would imply that the levy could provide 2,800-4000 hours of a police constable time. This could be 2,800-4,000 hours of visible late night policing in one area per annum.

We consulted an urban-based police force on the potential for receiving income from the levy. Representatives suggested that it could fund some of the following new schemes:

- *Multi-agency education and information programmes to increase the understanding of risk to children and young persons, targeted at parents and teachers for the under 16s.*
- *Multi-agency education programmes targeting bar staff in the night-time economy to increase awareness of risks, vulnerability and consequences and their personal responsibility.*
- *Financial support for projects to expand the use of volunteers in the night -time economy with an emphasis on safeguarding vulnerable people and promoting the perception of safety*
- *High profile policing initiatives to tackle violent or disorderly behaviour*

The levy can also help fund existing operations. Conversations with police forces have indicated that they would feel justified in spending the levy money on tackling a wide range of offences, on account of them being alcohol-related. These offences can include: violence against the person (less serious); sexual offences; robbery; theft of/from motor vehicle; drugs; public disorder; complaint/nuisances.

There is no robust estimate for the cost of alcohol related crime. We do have estimates of the costs of violent crime and common assault. These were provided in the report "The economic and social costs of crime against individuals and households 2003/04"⁸. Cost of crime estimates should be used with care. The costs relate to total crime and they do not represent police investigations of crimes, for example, since not all crimes are reported to the police. The figures from this report were updated in 2009 to account for inflation and, in the case of the physical and emotional component of the unit costs, for growth in nominal income. We can use two of these datasets when looking at alcohol related crime – that for one violent crime ('other wounding') at £9,700 and that for one 'common assault' at £1,700. The report (reference 8 above) describes the differences between 'serious wounding' and 'other wounding'. Page 19 of the report states that 'serious wounding generally involves the use of intent'.

On the basis of these costs; £84-120k per annum would allow a local police force to cover the costs of reacting to 9-12 violent crimes ('other wounding') or 49-71 common assaults.

⁸ <http://webarchive.nationalarchives.gov.uk/20100413151441/crimereduction.homeoffice.gov.uk/statistics/statistics39.htm>

A late night levy will also enhance licensing authority partnerships with the police. The two bodies will work better together to tackle the negative effects of the sale of alcohol late at night.

In the scenario in table 11, the licensing authority stands to raise £39-54k annually from the levy. Licensing authorities have indicated that they would spend this money on schemes like:

- *Late night street wardens.* These men and women will provide a visible presence on late night streets. They will help alert the police to incidents and assist door staff with problem customers.
- *Late night taxi marshals to help people get home safely and speedily.*
- *Late night street cleaning to better the business environment.* Business-led schemes often choose to provide this kind of service as a cleaner environment often encourages more visitors and a wider demographic.

Under option 3 specifically, licensing authorities are handed some discretion over who they feel should make a greater contribution towards enforcement costs incurred as a result of the late night economy. By granting exemptions and reductions, businesses are given a clear signal by their local licensing authorities on the advantages of joining a best practice scheme. Greater take-up of best practice schemes could mean a reduction in the harms in connection with the late night sale of alcohol.

The available exemption for Business Improvement Districts will allow licensing authorities to give the signal that non-regulatory business action is an alternative way to improve the late night economy and reduce policing costs.

Administrative Savings (excluding OIOO), Benefits (OIOO), Administrative Savings (OIOO)
N/A

TOTAL BENEFITS

The annual average benefit can be from £0 (no licensing authorities may adopt the levy) to £17.0m (Row 5, Table 11). The analysis above, which takes into account some premises avoiding the levy, provides our 'best estimate' of £12.2m (annual average). Summary:

Annual Average: £0 - £17.0m (Best estimate: £12.2m)
Present Value: £0 - £145.4m (Best estimate: £104.0m)

Option 2 – A late night levy without exemptions and reductions

A late night levy will be a power of taxation. As such it is 'out of scope' for the purposes of one in one out.

Costs (excluding OIOO)

Levy payers will not receive added costs from the late night levy beyond the charge itself. Payment will be in tandem with the current annual licence fee. As such, holders of a 'relevant late night authorisation' will bear an **ongoing** annual cost as specified in **Table 2** above.

Premises which decide to avoid the levy will bear the cost of loss of business up to the level of the levy charge (**under assumption A5**).

Table 12 - Cost to business in average licensing authority from late night levy option 2

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
Breakdown by band ing 104 x A2	75	174	43	9	1	22	2	326

Maximum cost per business	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	-
Maximum cost to business per band	£22,425	£133,632	£54,137	£12,285	£2,730	£32,846	£8,880	£266,935

The sum of premises in row 2 amounts to 326 not 311. This is because we have consistently rounded percentages and numbers to ensure that premises in Band Dx and Ex are accounted for.

As a result, the maximum cost to business in the average licensing authority scenario will be £266,935 multiplied by the number of licensing authorities that adopt the levy. Using 94 (A8), the cost is estimated as:

Annual Average: £25m
Present Value: £215.2m

This approach would disproportionately affect the hospitality industry. Though they sell alcohol late at night, hotels and restaurants generally only sell to overnight or dining patrons. All these premises would have to pay the late night levy. Some may choose to stop selling alcohol late at night. This may affect the nature of hotel services.

Administrative Burdens (excluding OIOO)

Administrative burdens are borne by the licensing authority. For business there will be little administrative burden as the levy is paid in tandem with the licence fee and businesses will be given good warning of their liability. Administrative burdens on the licensing authority were estimated in **tables 6, 7 and 8**, above.

Y0 (table 6 and 7 transitional costs + table 8 administrative costs)	£20,918
Y1 – Y9 (just table 8 administrative costs)	£12,040

All of this cost is absorbed by the late night levy revenue. As such, it is not listed as a 'cost'.

Costs (OIOO) and Administrative Burdens (OIOO)

N/A

TOTAL COSTS

The total cost will be entirely borne by business. The figure we have calculated above includes those that lose business from avoiding the levy – it is thus our 'best estimate'. The best lower estimate for cost is provided by the scenario that no licensing authority adopts the late night levy ('0'). As such, the total cost is:

Annual Average: £0 - £25m
Present Value: £0 - £215.2m

Benefits (excluding OIOO)

An **upper estimate** of benefit of the levy will be the money raised, should all premises in the average licensing authority scenario pay, minus the costs of administering the levy.

It may not be worthwhile for some premises to pay the levy. To gain the **best estimate** of the benefits we use **A6** (above) and estimate 25% of late night licence holders will make a variation to their licence to avoid the levy. This reduces the number of levy payers from 311 less 78 = 233.

Table 13 – Money raised from those premises that do not change their hours (Option 2)

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
% of premises in each band (as T.3 above)	24.07%	55.85%	13.68%	2.89%	0.41%	7.15%	0.53%	-
Levy payers	56	130	32	7	1	17	1	244
Levy Charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	

(as T.2 above)								
Amount raised	£16,744	£99,840	£40,288	£9,555	£2,730	£25,381	£4,440	£198,978

The sum of premises in row 2 amounts to 244 not 233. This is because we have consistently rounded percentages and numbers to ensure that premises in Band Dx and Ex are accounted for.

On this basis, the best estimate of the money raised from the levy will be £198,978 p.a. per licensing authority. On a national level, this equates to:

Annual Average: £18.7m

Present Value: £161.0m

Row 4 in the table below gives us **high and best estimates** of the net benefits in Y0 (taking out administrative expenses). Row 5 gives this estimate for Y1-9.

The levy is an optional power. The **low estimate** assumes that no licensing authority adopts the power. The net benefit will thus be '0'.

Rows 7-10 estimates how this benefit may be used (using the assumption A7)

Table 14 – Sample spending of the levy revenue p.a., using lower estimate above (Option 2)

		Best estimate		Upper estimate	
		Average licensing authority	England and Wales (as A8)	Average licensing authority	England and Wales (as A8)
1	Total raised by late night levy (table 13)	£198,978	£18.7m	£266,935	£25.1m
2	Y0 transitional expenses (tables 6 and 7)	£9,438	N/A	£9,438	N/A
3	Ongoing administrative expenses p.a. (table 8)	£11,760	N/A	£11,760	N/A
4	Y0 net levy revenue (1 minus 2 minus 3)	£177,780	£16.7m	£245,737	£23.1m
5	Y1-9 p.a. net levy revenue (1 minus 3)	£187,218	£17.6m	£255,175	£24.0m
6	Present values (as A8)		£150.6m		£205.7m
Split of net levy revenue (using A7)					
7	Y0 to police	£124,446	£11,697,924	£172,016	£16,169,495
8	Y1-9 to police	£131,053	£12,318,944	£178,623	£16,790,515
9	Y0 to licensing authority services	£53,334	£5,013,396	£73,721	£6,929,783
10	Y1-9 to licensing authority services	£56,165	£5,279,548	£76,553	£7,195,935

The benefit of the levy comes in the services that are provided with the money calculated above. This will depend on the licensing authority area that adopts the levy. The levy revenue will be passed to the local police authority to spend in line with local priorities. This should provide a benefit to business through a safer late night operating environment.

A late night levy will also enhance licensing authority partnerships with the police. The two bodies will work better together to tackle the negative effects of the sale of alcohol late at night.

Further analysis of benefits can be found in the analysis of option 3 (above).

Administrative Savings (excluding OIOO), Benefits (OIOO), Administrative Savings (OIOO)
N/A

TOTAL BENEFITS

The annual average benefit can be from £0 (no licensing authorities may adopt the levy) to £24.0m (Table 11, Row 5). The analysis above, which takes into account some premises avoiding the levy, provides our 'best estimate' of £17.6m (annual average). Summary:

Annual Average: £0 – 24.0m (Best estimate: £17.6m)

Present Value: £0 - £205.7m (Best estimate: £161.0m)

Options B – Commence EMROs as they stand in primary legislation and Option C – commencing EMROs with nationally prescribed exemptions

Licensing authorities will have to prove that the EMRO is 'appropriate' to furthering the licensing objectives (namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm). As long as this is satisfied, here are some of the variables that will affect the overall impact of an EMRO:

- EMROs can be applied in the whole or part of a local authority area. Some licensing authorities may only apply it to a few problem premises, others may apply it to a problem street.
- We cannot be sure how many licensing authorities will adopt an EMRO, and where they do it and how many they may apply.
- EMROs can apply on any or all days a week.
- EMROs can apply flexibly between midnight and 6am.
- EMROs can last for as long as the authority can show that its existence furthers the licensing objectives.
- We have no way of estimating how many businesses may make representations against or in favour of the EMRO, this will depend on how well the EMRO is designed and what initial scoping is done.

On account of these variables, it was difficult to predict the national impact of Early Morning Restriction Orders. This was noted in the Impact Assessment for the Police Reform and Social Responsibility Bill.

This variance is a consequence of the Government's desire to empower localities to determine their own outcomes. The impact of EMROs will vary according to local circumstances and how a licensing authority wishes to react. Government intervention was necessary to give licensing authorities the power to deal with these situations.

Based on early pre-consultation, we expect the EMRO to be a focused power and a valuable tool for licensing authorities to use in hotspots of alcohol related crime and disorder. Where it is adopted, the assumption is that costs to business through loss of sales are transferred as a benefit to society through a safer late night economy (and in the form of reduced policing and enforcement costs).

In order to provide some analysis, we will undertake a 'breakeven analysis' to roughly estimate the loss of business resulting from an EMRO and an equivalent benefit to society from the reduction in crime. **The government is committed to letting local areas make informed choices for their own situations.** The following analysis is by no means a government suggestion of how a local authority should calculate the worth of an EMRO. Any guidance on the decision to adopt an EMRO and interpretation of primary and secondary legislation shall be found in the statutory Licensing Act 2003 Section 182 guidance.

Cost – loss of business from an EMRO

To help us estimate the impact of an EMRO, we create a sample EMRO in a specific area. The following is based on a number of assumptions, namely, the characteristics of the sample EMRO and the nature of the affected premises.

Discussions with licensing authority representatives have suggested that, where they are adopted, EMROs are likely to target small problem areas. Informed by discussions, we shall apply our sample EMRO to a total of 15 premises on two city centre streets. Our sample EMRO will have the following other characteristics (again, informed by discussions):

Length of EMRO – One year (as standard in impact assessments)
Days where EMRO applies – Saturday night
Application time – 2am to 4am

The Police Reform and Social Responsibility Bill Impact Assessment estimated the average half-day turnover for on-trade premises to be £412⁹. Should we assume, on the basis of discussions

⁹ P.20, <http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>

with operational colleagues, that the premises would take the majority of its money from 4pm to 4am, then 2 hours of business will amount to a £138 turnover ((£412 x 2 half days = full day turnover)/12 hours of operations x 2 hour EMRO). The sample EMRO lasts for one year and applies once a week, thus the total loss of income for one premises subject to this EMRO from 2am to 4am would be £138x52=£7,176. EMROs will also apply to off-trade businesses, but alcohol sales are likely to form a much smaller part of their business. The estimate above should encapsulate the loss of business felt by an off-trade retailer, should it be forced to close its alcohol sales for the EMRO period. Our sample EMRO covers 15 premises. The total loss of turnover to business (to all those contained) is thus £108K per annum.

Cost of crime prevented by an EMRO

The EMRO has been designed to tackle areas with specific problems with alcohol related crime. There is no robust estimate for the cost of alcohol related crime. We do have estimates of the costs of violent crime and common assault. These were provided in the report "The economic and social costs of crime against individuals and households 2003/04"¹⁰. Cost of crime estimates should be used with care. The costs relate to total crime and they do not represent police investigations of crimes, for example, since not all crimes are reported to the police. The figures from this report were updated in 2009 to account for inflation and, in the case of the physical and emotional component of the unit costs, for growth in nominal income. We can use two of these datasets when looking at alcohol related crime – that for one violent crime ('other wounding') at £9,700 and that for one 'common assault' at £1,700. The report (reference 9 above) describes the differences between 'serious wounding' and 'other wounding'. Page 19 of the report states that 'serious wounding generally involves the use of intent'.

In this analysis, we take as given that the reoccurrence of crime can be attributed to the sale of alcohol by a group of premises. We also assume that the licensing authority is legally justified in making the assumption that a regular restriction of hours would serve to prevent this crime and further the licensing objectives. Given these factors, the sample EMRO above (cost: £107,640) is monetarily justified if it prevents annually 11 incidents of less serious wounding or 63 common assaults in the area. Discussions with operational colleagues suggest this is a realistic estimate for a high crime area.

Administrative Burdens

On account of the factors above, we are unable to monetise the administrative burden of an EMRO at this stage. This, again, will depend on how many are adopted, their coverage and their timings. We hope to gain a better picture of this following the consultation. To reduce costs, their decision on whether to adopt any EMROs could feasibly be taken when they renew their licensing policy statement. EMROs are a Licensing Act 2003 function. As such, the costs of imposing an EMRO are recoverable through the licence fee. The Police Reform and Social Responsibility Bill contains measures to allow licensing authorities to set fees so as to ensure cost recovery. This analysis assumes that the licensing authority decision is rational, procedurally fair, non discriminatory, ECHR compliant etc. There should be no legal fee burden for licensing authorities who adopt an EMRO should they follow the procedures that will be set out in primary and secondary legislation.

Under **option C** there may be a small administrative burden upon premises which are eligible for an exemption but do not currently meet the criteria (in terms of conditions on their licence). This will mean they will bear the burden in making a minor variation (cost: £89) to add conditions. We cannot be sure of how many premises will do this. If we assume that there are 4 exempted premises in the sample EMRO area and, as in the levy calculations at the top of page 21, 75% need to make the £89 change to their licence, then the total administrative and one off burden would be £89 x (75% of 4)= £267 per sample EMRO.

One In One Out (OIOO)

Early Morning Restriction Orders will serve as an 'IN' for the purposes of One In One Out. We will need to provide some analysis to monetise the 'IN'. This is a 'consultation stage' impact assessment. We will ask consultation respondents to comment on the impact assessment and our

design of the Early Morning Restriction Order. We hope to be provided with more detailed evidence. At this stage, we do not have an accurate estimate of how many EMROs will be adopted. In order to put a cost on the 'IN', we shall assume that 50 of these sample EMROs are applied. This figure has been estimated with reference to the late night levy section above. We estimated that 94 licensing authorities will adopt the late night levy. The EMRO is a more focused tool, so 50 can be obtained by roughly halving the levy estimate. This will result in an annual cost to business of $50 \times \text{£}108\text{K} = \text{£}5.4\text{m}$ **annual average and a present value of £46.6m (with 3.5% discount rate the net annual equivalence is £-5.6m)**. This figure is only used to monetise our initial estimate of the OIOO burden. It will not be used in the analysis below or in the summary sheets.

The OIOO burden of **option C** is likely to be less than **option B**. The analysis above did not make any differentiation over the kinds of premises that the EMRO would apply to. To permit breakeven analysis, we assumed that 15 premises were subject to the EMRO. The analysis would be the same if 20 premises are in the area but 5 are exempt. Under the scenario above, the OIOO burden of **Option C** will decrease by $\text{£}5.4\text{m}/15 = \text{£}0.36\text{m}$ per exempted premises in the sample area.

Option C would exempt certain types of business from the effect of an EMRO. The impact of exemptions will be that those businesses that commonly do not cause alcohol related crime and disorder will not be subject to the restriction. The tight definition of the categories will serve to prevent providing exempted premises with a competitive advantage. Should a hotel, for example, act in the same way as a nightclub, it would be subject to the EMRO in the same way as a nightclub. **Option C** will provide clarity for some alcohol retailers that they will not be subject to an EMRO in their area. Members of the proposed categories (namely premises which serve to overnight residents; Theatres and cinemas; Community Premises and some casinos and bingo halls [subject to cabinet committee clearances]) will not bear any costs from any EMRO. The $\text{£}7,176$ that was estimated above as the cost to each individual business will not apply.

In sum, option C constitutes a minimisation of EMROs' burden on business

Option 1A – Do not commence both provisions

This impact assessment considers regulations to be made ahead of commencing existing policies. This 'do nothing' option (no levy and no EMROs) is provided as a baseline to estimate the costs and benefits of the different potential levy and EMRO designs. As a result, we are not seeking consultation responses on this option.

In this current state the police continue to incur huge costs in the late night economy (as explained in the 'Background' section). Residents groups and others continue to comment that some town centres are becoming 'no go areas' as a consequence of alcohol related crime and disorder.

Other options (including non-regulatory options) were considered prior to laying primary legislation on the late night levy and EMROs. This impact assessment follows a consultation, response to consultation, the laying of primary legislation and the passing of primary legislation through both Houses of Parliament. The impact assessment for alcohol measures in the Police Reform and Social Responsibility Bill can be found here (<http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>)

These are two local powers and we expect licensing authorities to consider the nature of their late night economies before adopting them. This will include analysis of the costs and benefits of all the options. Policing costs and the nature of town-centre late night economies differ throughout the country. We cannot make a broad statement on the costs and benefits of the late night economy nationally.

There is an opportunity cost contained in this option through not commencing legislation that has recently been scrutinised by both Houses of Parliament and enacted [DN – pending Royal Assent later this year].

F. Risks

Option 2B –late night levy and EMROs without exemptions or reductions

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This option may also have an impact on the British hospitality and entertainment industries as restaurants, theatres, hotels and bed and breakfasts must pay a levy on their late licences or will have their late night alcohol sales affected.

Option 3 – late night levy with exemptions and reductions

There is a risk that licensing authorities do not adopt any exemptions or reductions in their area. As such, the risks of the above option are repeated. The Government believes that the elected and accountable licensing authority (a part of the local authority) is best placed to make the decision on which types of premises should not make a contribution towards enforcement costs. In guidance we will suggest that licensing authorities grant exemptions and reductions.

There is also a risk that the late night levy is not adopted by any licensing authority. However, the levy has been designed as an optional tool for licensing authorities and the Government thinks it should be entirely in their hands.

Both Options B and C – Early Morning Restriction Orders

There is a risk that EMROs are not adopted by any licensing authority. However, EMROs have been designed as an optional tool and, like the levy; the Government thinks it should be entirely at their discretion.

For both options the calculation of risk will be taken by the relevant licensing authorities as they choose whether to adopt the powers. This is in line with the Government’s localism agenda.

G. Enforcement

We do not expect that the levy will require any significant increase in enforcement activity. The late night levy can be collected with the annual licence fee. The licence fee system is compliant with the principles of the Hampton Code. Enforcement costs only relate to non-payment.

EMROs may result in an increased enforcement cost as both licensing authorities and the police will need to ensure that premises are not contravening the order. However, the increased enforcement cost is likely to be outweighed by the reductions in enforcement costs resulting from the reduction in late night crime. This calculation will be made by the local licensing authority and police force in deciding whether to make an order. Enforcement costs will be borne by the licensing authority and local police force.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

NM = Non-monetised

M = Monetised

Option	Costs	Benefits
1 NM	Current high costs to enforcement agencies in the late night economy	Benefits to alcohol trade
A NM	Alcohol related crime in specific problem areas	Benefits to alcohol trade
2 M	PV = £0 to £215.2m (Best - £215.2m) in cost through levy charge or loss of business	PV = £0 to £205.7m (Best - £150.6m) in benefits for services in the late night economy. I.e. More resources for the police and licensing authority services which address the effects of the sale of alcohol late at night.

2 NM	Costs to hospitality and entertainment trades.	Benefits resulting from better funded local services – a safer late night economy, assistance from wardens/taxi marshals.
3 M	PV (inc. transition) = £0 to £157.0m (Best - £157.0m) in cost through levy charge or loss of business and small transitional cost to business in changing licence to meet exemption criteria.	PV = £0 to £145.4m (Best - £104.0m) in benefits for services in the late night economy. I.e. More resources for the police and licensing authority services which address the effects of the sale of alcohol late at night.
3 NM		Benefits resulting from better funded local services – a safer late night economy, assistance from wardens/taxi marshals. Benefits for society as a result of greater take-up of best practice schemes
B NM	Costs to business from loss of business resulting from an EMRO Costs to businesses in suggested exemption categories	A safer late night economy with reductions in alcohol related crime.
C NM	Costs to business from loss of business resulting from an EMRO	A safer late night economy with reductions in alcohol related crime. Reduced costs to suggested exemption categories

Analysis in sections E and F suggests that:

Option 3 provides the most proportionate method for late opening alcohol retailers to contribute towards late night enforcement costs. It will allow licensing authorities to exempt or grant reduction to certain categories of business. Although the benefits of this option are lower, it constitutes a reduction in costs for businesses which already make contributions through other means or those businesses which licensing authorities may feel should not make a contribution at all.

Option 3 creates an additional cost of £0.4m which is out of scope for a 'transfer'. This cost is necessary to ensure that exemption categories can be enforced. For the benefit it shall give to the hospitality industry, we believe exemption categories are worth the additional cost.

Option 1 and Option A may be most appropriate for particular localities. Both powers will be completely discretionary for licensing authorities. Should they feel that Option 1 and Option A have the greatest rationale they may choose not to use either of the powers.

Option C will have a reduced impact on certain types of business (namely those named as suggested exemption categories in the consultation document).

I. Implementation

The Government plans to introduce these measures in secondary legislation made under the Police Reform and Social Responsibility Bill. [DN – A line will be inserted detailing when secondary legislation will be laid – currently dependant on clearances].

The Government will not implement this power on a local level. Licensing authorities will choose whether to adopt the levy. The levy will commence in local areas whenever the licensing authorities have complied with regulations by, among other things, consulting affected persons and giving sufficient notice to liable premises.

J. Monitoring and Evaluation

The impact of the levy will be assessed as part of an internal review based on feedback from licensing authorities and the police. Please see the Post Implementation Review plan (Annex 1) and section K below.

K. Feedback

The effect and appropriateness of the levy will depend on the area in which it is adopted. Licensing authorities will assess these aspects in their annual decision on whether to continue collecting the levy in the following year. The Home Office should be aware of the licensing authorities that adopt the levy and will gather feedback from these authorities.

L. Specific Impact Tests

Small firms and competition explanatory memoranda are attached in annex 2

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

In line with the Government policy on sunsetting and review of legislation, a "Duty to Review" clause is included in the Police Reform and Social Responsibility Bill and covers EMROs. This duty is applicable after a minimum of five years. In the Police Reform and Social Responsibility Bill Impact Assessment the Government committed to assess the impact of the alcohol measures in the Bill that do not qualify as regulatory measures for the purposes of "one in one out". The late night levy is included in this category. The review will be carried out alongside the statutory review of the other alcohol measures in the Bill. The review will ascertain whether expected benefits have been realised. More detail can be found in the impact assessment for the alcohol measures in the Police Reform and Social Responsibility Bill. This is listed as a source on page 6.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The late night levy and EMROs are local powers. As such, the review will consider whether they are a proportionate and effective tool for licensing authorities to raise greater resources for enforcement services late at night or target areas with alcohol related crime and disorder issues.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The review will primarily be based on feedback from licensing authorities. Local areas are best placed to determine the impact and appropriateness of the policies in their area. We hope to suggest that licensing authorities write to the Secretary of State on adoption of the levy or an EMRO in their area.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

The current baseline position will be considered in local areas when licensing authorities take a decision on whether to adopt the policies. On a national basis, the current baseline is outlined in the Impact Assessment in the consideration of police and licensing authority costs in the late night economy.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Success of the policies depend on whether licensing authorities deem them an appropriate tool in their area. Success on a local level will be assessed by the licensing authority on an annual basis as part of their decision to continue or scrap the levy in their area or whether they should use an EMRO.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

In guidance we will consider suggesting that licensing authorities write to the Secretary of State on the adoption of the levy in their area.

Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]

Annex 2. Specific Impact Tests

Small Firms Impact Test – Explanatory Memorandum

1. In conducting the initial consultation we were particularly mindful of the potential impact on small firms and sought to ensure that they were fully engaged.
2. Small businesses are often defined in terms of employee numbers. If we use this definition, then the vast majority of licensed trade businesses are classified as ‘small or micro businesses’. These businesses often rely on a pool of shift workers and only have a small base of full time management staff. The industry snapshot below attempts to estimate the proportion of small businesses selling alcohol in England and Wales.

Standard Industry Classification 2007	Description	Number with <10 employees in England and Wales (Micro)	Number with <20 employees in England and Wales (Small)	Number with <50 employees in England and Wales (Medium)
4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating	23,056	24,354	24,803
4725	Retail sale of alcoholic and other beverages	4,285	4,454	4,486
5510	Hotels	4,284	5,616	6,814
5610	Restaurants	46,259	51,483	53,593
5630	Public Houses and bars	32,905	38,751	40,664
Total		110,789	124,658	130,360
Percentage of total		84%	94%	98%

This table is based on data from UK Business: Activity, Size and Location – 2010 which contains data from a snapshot of the Inter Departmental Business Register (IDBR) taken on 22 March 2010. Table B3.1 provides a breakdown of the number of enterprises in the UK by Standard Industry Classification 2007 and number of employees. These numbers are scaled down to England and Wales using table B3.4 (regional distribution). These data also include those restaurants, hotels and shops which do not sell alcohol. This is likely to skew the results. In March 2010 there were 182,800 premises licenses and club premises certificates with an authorisation to sell alcohol.

The late night levy

3. The late night levy proposals can affect all types of licensed premises with a licence to sell alcohol after midnight. As such, the levy will affect small businesses.
4. The late night levy is a tax. As such, it is out of scope for the purposes of One In One Out and the micro-business moratorium.
5. The late night levy will ask for a contribution from business towards the enforcement costs generated as a result of the sale of alcohol late at night. It shall be paid by those businesses which profit from supplying alcohol late at night. Small businesses, like large ones, participate in this late night economy and should contribute to the enforcement costs incurred as a result.
6. We have not considered an exemption for small businesses based on employee numbers. Should this exemption be used, the contribution towards policing costs would be fully borne by a small minority of larger businesses. Under this scenario the amount raised will not raise a meaningful amount for policing and, as such, will undermine the objectives of the coalition commitment. The commitment to the late night levy has not

been based on the impact of different sizes of business, rather on the impact of the sale of alcohol late at night.

7. The Home Office considered business rate relief when seeking to minimise the burden on small businesses. As explained above, a definition on employee numbers does not easily suit the licensed trade. An alternative and more workable definition is provided in business rate relief provisions. This defines a 'small business' as one with a rateable value below £6,000. On this basis, we have taken the steps considered in paras. 10 and 12 below. We have also proposed an exemption for those businesses which successfully claim a relief in their business rates by virtue of being the last retail outlet in a rural settlement with a population of less than 3,000. This will be based on 'rural rate relief provisions' (more detail contained in adjoining consultation document').

Early Morning Restriction Orders (EMROs)

8. The Early Morning Restriction Order will allow licensing authorities to react to problems resulting from the supply of alcohol at specific late night times on specific days. The imposition of an EMRO must be appropriate for the furthering of the licensing objectives. A licensing authority must provide evidence to support its decision. Businesses will then be able to make representations to prove that they do not, in fact, cause alcohol related crime and disorder. As such, it would be reasonable to assume that those premises that eventually fall within an EMRO are partially responsible for alcohol related crime, public nuisance or disorder in that area.
9. EMROs are not a blanket regulation and should not be subject to any exemption for small businesses. EMROs are a tool for licensing authorities. Where an EMRO is used, it will be fully justified in the context of a reduction of crime and disorder in an area. An exemption for small businesses, using the definition above, would render the policy unusable in relation to its intention to tackle pockets of alcohol related crime and disorder.
10. EMROs are in scope for One In One Out and the micro-business moratorium. We intend to seek a waiver for this policy from the micro-business moratorium.

Consultation with small firms on reducing the burden of the late night levy

11. As an alternative to exemptions, we have consulted small firms and sought to reduce the impact of the levy on small business in a number of ways.
12. Business representatives wanted to see the levy charges varied according to the size of businesses. The levy charges have been based on rateable value. This ensures that smaller, less valuable, premises will pay a much lower levy charge. According to our indicative charges those businesses in Band A (rateable value of £0 to £4,300) will pay only £299. Data in the Impact Assessment above show that the majority of licensed premises fall within Band B (rateable value of £4,301 to £33,000). These premises will only pay £768 annually.
13. Payment on rateable value allows businesses to pay the levy with their annual licence fee. As such, there will be little added administrative burden on small businesses in paying the levy.
14. The levy charges will be uniformly calculated nationally. We will also ensure that licensing authorities give good notice to all premises which are liable for the levy in their area. As such, there will be no added compliance burden on small businesses in working out liability and calculating their charge.

15. Meetings regarding small businesses pointed out that some small businesses may want to change their opening hours to avoid paying the late night levy. As a result, the late night levy has made provision for businesses to make a change to their licence without paying a fee. This will mean that businesses can make a simple decision on whether to stay open based on income after midnight and the potential levy charge. As discussed in the accompanying Impact Assessment, the loss of business will be no higher than the charge the business wishes to avoid. For small businesses, this is a maximum of £299/£768 annually.
16. Some representatives have argued that small hospitality businesses e.g. Bed and Breakfasts should be exempt from the late night levy. The consultation attached to this Impact Assessment considers giving premises that only serve to overnight guests (late at night) as an optional exemption for licensing authorities to apply.

Competition Impact – Explanatory Memorandum

Do the policies:

1. Directly limit the number or range of suppliers?

The late night levy does not directly limit the number or range of suppliers.

EMROs may limit the range of suppliers in an area where it is applied. The EMRO will be justified on the grounds of crime and disorder and will only limit the range of suppliers where it can provide evidence that this is appropriate to further the licensing objectives.

2. Indirectly limit the number or range of suppliers?

In areas where it is adopted, the late night levy may result in a number of businesses deciding to no longer sell alcohol late at night. They will make a free change to their hours if they do not consider it profitable to pay the levy and stay open late.

There will be no greater costs for either existing suppliers or new entrants. The late night levy charges are consistent wherever it is applied and the EMRO will affect all premises equally in the specified problem area.

3. Limit the ability of suppliers to compete?

EMROs will restrict the areas where some businesses can operate at specific late night times. These areas will be set to promote the licensing objectives and on the basis of crime and disorder. The levy will not limit the ability of suppliers to compete.

4. Reduce suppliers' incentives to compete vigorously?

No. Neither policy will have an effect on the exchange of information between suppliers.

We expect the two policies to have a minor impact on competition. However, these cannot be monetised and quantified at this stage. We hope that the consultation will provide us with the information to be able to better understand the effects on competition.

Annex 2 – Present Value and Average Annual Tables for options 2 and 3 only (late night levy)

Option 2 – High

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	25.00
Total costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	23.10	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	239.10	205.68	23.91
Total benefits	23.10	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	239.10	205.68	

Net	-	1.90	-	1.00	-	1.00	-	1.00	-	1.00	-	10.90	-	9.51
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Option 2 – Best estimate

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	25.00
Total costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	16.70	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	175.10	150.60	17.51
Total benefits	16.70	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	175.10	150.60	

Net	-	8.30	-	7.40	-	7.40	-	7.40	-	7.40	-	74.90	-	64.60
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Option 3 – High

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	0.37	-	-	-	-	-	-	-	-	-	0.37	0.37	
Annual recurring costs	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.00	156.66	18.20
Total costs	18.57	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.37	157.03	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	16.10	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	169.10	145.43	16.91
Total benefits	16.10	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	169.10	145.43	

Net	-	2.47	-	1.20	-	1.20	-	1.20	-	1.20	-	13.27	-	11.60
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Option 3 – Best estimate

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	0.37	-	-	-	-	-	-	-	-	-	0.37	0.37	

Annual recurring costs	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.00	156.66	18.20
Total costs	18.57	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.37	157.03		
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	11.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	121.00	104.01		12.10
Total benefits	11.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	121.00	104.01		

Net	-	7.37	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	61.37	-	53.02	-
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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

9. GAMBLING ACT 2005 – TIMETABLE FOR REVISION OF STATEMENT OF LICENSING PRINCIPLES

WARD(S) AFFECTED: ALL

RECOMMENDATION FOR DECISION: that	
A	The report be received.

Purpose/Summary of Report

- This report details the timetable for review and implementation of the Statement of Licensing Principles under the Gambling Act 2005.

1.0 Background

1.1 The Gambling Commission is the regulator for gambling in Great Britain, including the licensing of bingo, bookmakers and casino operators, pools operators, certain lottery operators and managers, gaming machine manufacturers and suppliers and remote gambling operators. In addition the Commission is responsible for all personal licences.

2.0 Report

2.1 East Herts Council is responsible for issuing premises licences, permits and registrations.

2.2 The Licensing Authority (East Herts Council) is required to prepare, consult and then publish a Statement of Principles that it proposes to apply in exercising its functions under The Gambling Act 2005. The Statement must be reviewed every three years, and is now due for republication by January 31st 2013.

2.3 The statement must be published on the licensing authority's website and in one of the places set out in the Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006.

- 2.4 The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales)Regulations 2006 determines the form of the statement and details the areas that should be covered within the statement. This includes an introductory section summarising the matters dealt with in the statement, a description of the geographical area in respect of which the authority exercises its functions under the Act and a list of persons whom the authority has consulted in preparing the statement.
- 2.5 Furthermore, the following matters must also be set out in a separate section:
- the principles to be applied by the authority in exercising the powers under Sec 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm;
 - the principles to be applied by the authority in exercising the powers under Sec.158 of the Act to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence;
 - the principles to be applied by the authority in exercising the functions under Sec.29 and 30 of the Act with respect to exchange of information between it and the Gambling Commission, and the functions under Sec.350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 of the Act
 - the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Sec. 346 of the Act to institute criminal proceedings in respect of the offences in that section.
- 2.6 The regulations also detail the procedure to be followed in preparing or publishing a statement. In this respect, East Herts Council is following the statutory procedure.
- 2.7 March to July 2012; Officers will revise the existing statement, taking into account any suggestions from Members. Revision will include updating facts, figures, and references to revised guidance, and improving the readability of the text where needed. Officers will also arrange a 12 week consultation.
- 2.8 Licensing Committee 12 July 2012; Officers will present a draft revised Statement to Licensing Committee.

- 2.9 July to October 2012; Subject to final amendments at Committee Officers will put the revised draft out for 12 weeks consultation. Authorities are required to consult widely with Responsible bodies, such as Police and also representatives of local organisations. A list of all consultees is attached at Appendix B to the Statement.
- 2.10 It is likely that changes will be minor in nature, and therefore the draft Statement will be published on the council's website only. Consultees will be contacted by post with invitations to comment on the proposed changes.
- 2.11 Responses to consultation will be reported to Licensing Committee on 1 November 2012. Licensing Committee will be invited to approve any changes required as a result of public consultation.
- 2.12 Full Council will be invited to approve the revised Statement, at the first Council meeting in 2013.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

10. REPORT ON LICENSING ACTIVITY QUARTER 4 2011

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

To update members on activity in the licensing department re:

- Processing licences,
- Enforcement activity; and
- Other implementation of the Service Plan.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The report be received.

1.0 Background

1.1 This report presents data by full quarters on processing and enforcement data, and Licensing Sub-Committee involvement, on licences, notices, and permits, and applications including

- Alcohol, entertainment, and late night refreshment licences under the Licensing Act 2003,
- Gaming under the Gambling Act 2005;
- Taxi drivers, vehicle proprietors and operators.

1.2 This report also records developments in the service that implement the Service Plan.

2.0 Report

2.1 See Essential Reference Paper B for performance data for quarter 4: 1 October – 31 December 2011. This contains the numbers of applications or notices received, and totals of current licences.

2.2 During this quarter the enforcement team have undertaken 70 visits or inspections. These have been analysed further and are recorded as:

All complaints regarding taxis and premises have been fully investigated.

2.3 In respect of premises, the breaches of the licences have been addressed in accordance with our Licensing Enforcement Policy. During the previous reporting period a large amount of effort had been made by the team to recover annual fees from licensed premises. During this period the number of visits has fallen dramatically. Invoices are still being collected at a rate of over 90%. Currently at the time of reporting there are 38 outstanding invoices.

2.4 A significant part of the enforcement team's work is to ensure that all documentation for taxi drivers and vehicles are current and licenses are valid. During this quarter 37 letters were produced.

2.5 Under the penalty points system a total of 60 points have been imposed against 28 licence holders. It is hoped that this will contribute to improving drivers and proprietors behaviour.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Jenny Mills – Licensing Enforcement Officer, Extn: 1674.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	For information only, and no partner or external consultation has taken place.
Legal:	No issues identified by report author or contact officer
Financial:	No issues identified by report author or contact officer
Human Resource:	No issues identified by report author or contact officer
Risk Management:	No issues identified by report author or contact officer

Essential Reference Paper B

Q4 2011 – 1 October 2011 to 31 December 2011

Licensing Act 2003			
Premises Licences			
	Variation;		
	<i>The Bengeo Club (Hertford)</i>		
		1	
	Reviews;		
		0	
	Minor Variation;		
		10	
	Other Processes;		
	Disapply DPS	0	
	Transfer	6	
	Change DPS	26	
	Total number of premises licences re-issued		43
	New;		
	<i>E.F.E.S. Kebab and Pizza</i>		
	<i>Cooperative Foods</i>		
	<i>Cheeseplate</i>		
		3	
	Club Certificates		3
		0	
	Other licences and notices		
	Personal Alcohol Licence		
	New applications	22	
	Other processes	17	
			39
	Temporary Event Notices		
1 October to 31 December 2011			
	Served	184	
	Police Objections	0	
	Objections upheld	0	
			184

Gambling Act 2005			
	New and varied premises;	0	
	Gaming Machine Notices	0	
	Small Society Lotteries – New and renew	10	
			10
Taxis			
	New Dual Drivers	8	
	Renewed Dual Drivers	90	
	New Private Hire Drivers	19	
	Renewed Private Hire Drivers	8	
	Total driver applications processed this quarter		125
	New Operators	2	
	Renewed Operators	8	
	Total Operator applications processed this quarter		10
	New Hackney Carriage	11	
	Renewed Hackney Carriage	59	
	New Private hire Vehicles	2	
	Renewed Private hire Vehicles	13	
	Change of Vehicle	11	
	Total vehicle applications processed this quarter		96
	All applications this quarter		510

Licensing Sub-Committee hearings arranged this quarter;

Hertford Council Chamber at 10 a.m. 19/12/11	Variation Application (times for live music, recorded music and anything similar)	Queens Head - Sawbridgeworth
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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

11. EXPRESSION OF INTEREST FROM ROADWORTHINESS GARAGES

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To report to Members on expressions of interest from MOT testing stations to provide taxi vehicle condition certificate testing facilities, and whether an increase in the number of garages is appropriate.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	One of more additional roadworthiness garages be approved.

1.0 Background

1.1 There are 10 garages authorised to conduct vehicle condition certificate tests on behalf of East Herts Council:

Smithers Garages

50 London Road, Bishop's Stortford, CM23 5NF

Tel: (01279) 5071730

DJ Self Drive

Swains Mill, Crane Mead, Ware, SG12 9PY

Tel: (01920) 465431/2

Garretts Garage Services

42 Golds Business Park, Elsenham, Nr Bishop's Stortford, CM22

6JX

Tel: (01279) 647777

Sheppards

Dane Street, Bishop's Stortford, CM23 3BX

Tel: (01279) 757700

MRH Ltd Motor Repairs

4 Warehams Lane, Hertford, SG14 1LA

Tel: (01992) 550026

Hertford Tyre and Exhaust Centre
23/4 Dicker Industrial Estate, Hertford, SG13 7AE
Tel: (01992) 503804

Bloomfield Motor Services
Rear of Swift House, River Way, Harlow Essex, CM20 2DW
Tel: (01279) 600660

Orchard Works Garage, Unit 3 Clarklands Ind Est
Parsonage Lane, Sawbridgeworth CM21 0NG
Tel: (01279) 723371

L W Vass Ltd, Station Road, Ampthill, Bedford MK45 2RB
(HGV Special event Private Hire vehicles only)

W Range Motors, Unit 5 Amwell Lane, Stanstead Abbots.

2.0 Report

- 2.1 New expressions of interest have been received from MOT testing stations wishing to offer the facility of Vehicle Condition Certificate testing to taxi drivers and operators, both in Hertford;

Stanstead Autos, Unit 2 Mead Lane, Hertford, SG13 7AX;

Hertford MOT Services, 16 Dicker Mill, SG13 7AA

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

12. FEEDBACK ON CONSULTATION WITH THE TAXI TRADE – NEXT FARE TABLE INCREASE

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To report to Members on feedback from the licensed taxi trade on consultation whether a fare increase is appropriate.

<u>RECOMMENDATION FOR DECISION:</u> that
A The report be received.

1.0 Background

1.1 The last fare increase was brought into effect on 4 January 2011, and was the first increase for 18 months.

1.2 The licensed taxi trade were invited to an open meeting in October 2011 with licensing officers to discuss whether the trade wished to seek a fare increase.

2.0 Report

2.1 No drivers or operators thought a fare increase was sustainable. Trade was already considerably down, and any further increase would only further kill off the existing custom.

2.2 Officers were requested to consult again in January 2012.

2.3 Officers wrote to all taxi representatives and companies in January 2012. Taxi representatives and operators were asked to inform officers if there were any requests for a fare increase, and if so, officers would call a further open meeting to discuss trade proposals for a fare increase. If no such requests were received, officers would write again in April 2012.

2.4 No requests for a further open meeting were received.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None.

Contact Member: Councillor M Alexander – Executive Member for Community Safety and Environment.

Contact Officer: Brian Simmonds – Head of Community Safety and Health Services, Extn: 1498.

Report Author: Paul Newman, Interim Licensing Manager, Extn: 1521.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	See report.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

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EAST HERTS COUNCIL

LICENSING COMMITTEE – 8 MARCH 2012

REPORT BY DIRECTOR OF INTERNAL SERVICES

13. ATTENDANCE AT LICENSING SUB-COMMITTEE

WARD(S) AFFECTED: All.

Purpose/Summary of Report:

- Members have asked for details of attendances at Licensing Sub-Committees including Members attending as observers. This was in order to show work was being shared equally. These are provided in **Essential Reference Paper 'B'**.

<u>RECOMMENDATION FOR DECISION:</u> that	
A	The report be received.

1.0 Background

1.1 Members of Licensing Sub-Committees are drawn from the Council's Licensing Committee. These Members are required to complete appropriate training and attend meetings before serving on Licensing Sub-Committees.

2.0 Report

2.1 The tables in **Essential Reference Paper 'B'** give details of attendances at Licensing Sub-Committee during the current civic year.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Licensing Sub-Committee minutes.

Contact Member: Councillor M Alexander, Executive Member for
Community Safety and Environment.

Contact Officer: Jeff Hughes, Head of Democratic and Legal Support
Services – Extn: 2170.

Report Author: Peter Mannings, Democratic Services Officer,
Extn: 2174.

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	None
Legal:	The Council is required to ensure that licensing matters are dealt with by suitably qualified Members in an impartial manner.
Financial:	No financial implications
Human Resource:	No Human Resource implications
Risk Management:	The Council's reputation could be at risk if licensing matters are not dealt with in a correct manner.

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ESSENTIAL REFERENCE PAPER 'B'

**Training and attendance needed

* Attendance needed

Licensing Committee Members attending as Members of Sub-Committee									
Members	Total	From 18 May 2011							
Ashley W									
Ballam P	3	24/6	23/8	7/9					
Bedford E**									
Beeching R	1	10/10							
Buckmaster E	1	20/1							
Burlton A	3	7/9	19/12	22/2					
Cheswright R	3	24/6	20/1	6/2					
Crofton K **									
Demonti J	2	20/1	6/2						
McMullen M	5	24/6	7/9	10/10	19/12	6/2			
Poulton N	2	7/9	22/2						
Taylor J	1	7/9							
Warman A	3	7/9	19/12	22/2					
Wilson N	2	23/8	10/10						
Wrangles B	1	23/8							

Substitutes:									
Abbott D **									
Jones G **									
Newman M **									
Ruffles PA Training needed									

Licensing Committee Members attending as Observer

Members	Total	From 18 May 2011							
Ashley W									
Ballam P									
Bedford E **	1	23/8							
Beeching R									
Burlton A									
Buckmaster E	3	23/8	7/9	19/12					
Cheswright R	1	7/9							
Crofton K **									
Demonti J									
McMullen M	3	23/8	20/1	22/2					
Poulton N									
Taylor J									
Warman A									
Wilson N									
Wrangles B									

Substitutes:									
Abbott D **									
Jones G **									
Newman M **									
Ruffles PA Training needed	5	24/6	7/9	19/9	20/1	6/2			