

Committee(s):	Date(s):
Licensing Committee	28 April 2014
Health and Wellbeing Board - For information	30 May 2014
Court of Common Council - For decision	12 June 2014
Subject: Introduction of the Late Night Levy in the City of London	Public
Report of: Director Markets and Consumer Protection	

Summary

The Police Reform and Social Responsibility Act 2011 introduced the power for licensing authorities to impose a Late Night Levy. Within the legislation there is a requirement to consult on various matters relating to a proposed levy prior to its introduction. Members were informed of the proposed consultation process in a report to the Licensing Committee on 14 January 2013.

The City Corporation has now consulted on introducing such a levy with, amongst others, those persons licensed to sell alcohol after midnight, licensing solicitors/barristers, Members, all other premises licensed to sell alcohol and relevant trade associations. This report details the results of the consultation and the option to adopt the Late Night Levy.

Recommendations

It is recommended that:

1. Your Committee decides whether or not it would be desirable to apply the Late Night Levy in the City of London
2. In the event that your Committee is of the view that the Late Night Levy should be applied to the City of London, to recommend to the Court of Common Council the adoption of the Late Night Levy to be applied across the City of London to commence on the 1 October 2014 with the late night supply period set from 00:01 to 06:00 to all premises licensed to supply alcohol

and, subject to agreement of the above recommendation, Committee recommends the Court of Common Council to agree that:

- a. A reduction in the Levy of 30% be granted to premises operating between 00:01 and 06:00 where the premises have shown that they operate at the standard required to achieve the City of London

Safety Thirst award;

- b. The proportion of the net amount of the levy revenue to be paid to the City of London Police is 70%;
- c. The final allocation of that portion of the levy to be used by the City Corporation to be decided by the Chairman and Deputy Chairman of the Licensing Committee in consultation with the Director of Markets and Consumer Protection;
- d. An annual review of the operation and effect of the levy be carried out and reported to the Licensing Committee.

Main Report

Background

1. The City of London is the world's leading international financial and related business services centre. Whilst primarily a business district, the City of London has an expanding night life which is enjoyed by many thousands of residents and visitors.
2. The number of late night premises is high with around 290 premises licensed to sell alcohol after midnight. The costs of policing the late night economy are substantial.
3. The City Corporation is engaged in active partnership working with its licensed premises to ensure high standards of management that will prevent public nuisance. This includes active participation in 'Pubwatch', 'Hotel Forum' and its own Safety Thirst awards scheme and Code of Good Practice. These successful activities have continued to produce positive results.
4. There is a strong working partnership with the City of London Police with the police licensing team co-located on the same floor as the City Corporation's licensing team.
5. Despite this engagement and the standards that are being achieved, the City of London still continues to have levels of alcohol related crime which remain a key priority for the City of London Police to address going forward into 2014/15. Details of the crime statistics can be seen in Appendix 1. Although these figures may seem low compared to the rest of London, they still result in considerable time and expense ensuring that the vast majority of people wishing to enjoy the City of London late at night without causing trouble can do so safely.

6. The crime statistics reported in Appendix 1, with the exception of dealing with persons who are drunk and disorderly, are recordable crimes and do not include all incidents. The Police respond over a typical weekend to approximately ten calls requesting officer assistance that do not ordinarily end as recordable crimes.
7. The levels of anti-social behaviour and public nuisance associated with alcohol, and the difficulties in addressing it with limited policing, has led the City Corporation to pilot the use of a shared service with Westminster City Council Noise Team for dealing with noise including public nuisance issues. The pilot has been reviewed and a faster response time and presence within the City has meant this has been substantially brought back in house from April 2014.
8. The Police Reform and Social Responsibility Act 2011 (PRSRA) introduced the power for licensing authorities to impose a Late Night Levy (the levy) on the whole of their area. The levy enables licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy.
9. The licensing authority can choose the period during which the levy applies every night, between midnight and 6am, and decide what statutory exemptions and reductions should apply.
10. The aim of the levy is to empower local areas to charge businesses that supply alcohol late into the night for the extra enforcement costs that the night-time economy generates for police and licensing authorities. The rationale behind this is that the Government in The Coalition Agreement included the commitment to permit local councils to charge more for late night licences to pay for additional policing. The Government consider it right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.
11. The licensing authority must consult prior to the introduction of a late night levy and any decision relating to the permitted exemption or reduction categories, the size of the specified proportion, and the period which is to apply to the levy. The consultation commenced on 26 February 2014 and finished on 8 April 2014. A copy of the consultation document can be seen as Appendix 1. The consultation was advertised in the local press and was available either to download from our website or to complete online. All licensed premises were informed of the consultation. A previous consultation exercise was held in 2013 but, having taken legal advice, the decision was taken to run a fresh consultation exercise.

Adopting the levy

12. The amount of the levy is prescribed nationally and is based on the premises rateable value. The annual charges for the levy, and weekly equivalent, will be:

Rateable Value (£)	Rateable Band	Amount of Levy (£)	
		Annual Levy	Weekly Equivalent
0 – 4,300	A	299	5.75
4,301 – 33,000	B	768	14.77
33,301 – 87,000	C	1,259	24.21
87,001 – 125,000	D	1,365 (2,730*)	26.25 (52.50*)
125,001 +	E	1,493 (4,440*)	28.71 (85.39*)

* Where a multiplier applies for premises used exclusively or primarily for the supply of alcohol for consumption on the premises (bands D & E only)

13. Premises would pay their levy when their annual licence fee becomes due and therefore the levy payments may not be collected until up to a year after the implementation date. By law, any non-payment of the levy by the due date must result in the suspension of a premises licence or club premises certificate until payment has been made.
14. Of the revenue collected, the City Corporation is able to deduct the costs of administering the levy and then a minimum of 70% of the balance has to be passed to the City of London Police. Administration costs are estimated to be no more than £15,000 per annum.
15. The City of London Police are not bound by any restrictions as to how their portion of the money is to be spent. However, they have given assurances that it will be used towards the following objectives:
- To cover the costs associated with licensing hearings, advice and objections to Temporary Event Notices (TEN`s etc.), estimated as being between £20,000 and £30,000 per annum. It is clear that the police (as a responsible authority) are the key contributor when it comes to identifying a need for a realistic objection to a grant, variation or submission of a TEN.
 - Funding three additional officers to run an effective ‘action team’ within the police licensing team. The action team would actively target the licensed premises that have been identified via the Force Intelligence Bureau (FIB) as premises that are responsible for the majority of crime and or disorder occurring at their premises. They would work with those premises so that they can achieve better results in promoting the licensing objectives. Furthermore it would fall to them to identify persistence in failures and contraventions of licensing conditions.

- The night time economy has grown considerably in the City of London since the evolution of the police licensing team to its current form; however the team has not been expanded accordingly. Over time several ‘problem’ premises have been identified but, owing to a lack of tangible high-grade evidence, it has taken a considerable amount of time to deal effectively and efficiently with them. The extra three staff would facilitate preventative measures in order that further, more formal action is not necessary.
- Covert operations to detect offences, and as a consequence supply high-grade evidence of licensing offences allowing early intervention, would also be funded. This role needs to be carried out by trained officers (sometimes from other forces), as the City’s own licensing officers are known. Past experience would suggest this activity would occur approximately five or six times a year.
- In addition, it would allow the police licensing action team to further its partnership working with the London Fire Brigade, Security Industry Authority, and Trading Standards to be available to engage/detect/advise and enforce where the evidence is overwhelming; to learn lessons and to continue to promote good practice.

16. The City Corporation is however required to spend its allocation in specific areas namely:

- The reduction or prevention of crime and disorder
- The promotion of public safety
- The reduction or prevention of public nuisance
- The cleaning of any highway maintainable at the public expense within the City of London (other than a trunk road) or any land to which the public are entitled or permitted to have access with or without payment and which is open to the air

17. The proposals for spending the City Corporation’s allocations are:

- Towards funding a post to operate the Code of Practice and Risk Assessment Scheme. The postholder would work closely with all licensed premises in an advisory capacity in order that they have the best possible chance of promoting the licensing objectives.
- To fund a team of officers to work during the period midnight to 06:00 a.m. Officers would be able to respond speedily to complaints from members of the public where they are being disturbed by excessive noise. This will allow officers to see the problems as they are occurring and take the appropriate action. In the majority of cases this would

involve working in partnership with the licensed premises in question to alleviate problem areas.

18. The income estimates can be seen in the table below:

	A	B	C	D	Local Authority Portion	Police Portion
Amount raised if Levy introduced from 00:01 to 06:00	474,949	332,464	317,464	222,225	£66,668	£155,558
Amount raised if Levy introduced from 01:01 to 06:00	301,917	211,342	196,342	137,439	£27,488	£109,951
Amount raised if Levy introduced from 02:01 to 06:00	144,435	101,105	86,105	60,273	£12,055	£48,219
Amount raised if Levy introduced from 03:01 to 06:00	57,171	40,020	25,020	17,514	£3,503	£14,011
Amount raised if Levy introduced from 04:01 to 06:00	16,044	11,231	N/A	N/A	N/A	N/A
Amount raised if Levy introduced from 05:01 to 06:00	8,106	5,674	N/A	N/A	N/A	N/A

The columns in the table refer to the following:

- A – Total amount raised if all 290 premises were to pay the levy without any deductions.
- B – Total amount raised if 30% of all premises varied their hours to bring them outside the levy period. (figure based on the experience of other local authorities).
- C – Total amount raised from 70% of the premises less £15k to administer the scheme.
- D – Total amount raised from 70% of the premises less the administration costs and less a discount of 30% to account for premises participating in the Safety Thirst Award Scheme (the actual income likely if all recommendations in this report are approved).
- The final two columns show the amount in column D split between the City of London Police and the City Corporation, with 70% going to the Police and 30% to the City Corporation.

Criteria to be considered in making the decision

19. In deciding whether to adopt the levy, the City Corporation has to discuss the need with the relevant Chief Officer of Police, in this case the Commissioner of the City of London Police. The City of London Police have expressed their support for the levy and the Commissioner has been involved in the design of the proposed system.

20. The City Corporation has to have regard to the costs of policing and other arrangements for the reduction of crime and disorder in connection with the supply of alcohol between midnight and 6 a.m. and, having regard to these

costs, the desirability of raising the revenue to be applied in the prescribed manner.

21. The annual policing costs for these hours are difficult to accurately assess given that they cover various actions in various parts of the service and can include call handling, emergency response, investigation, detection and court time. It is estimated that the costs incurred by the Police are in excess of £2.1m. It is not possible to demonstrate that 100% of this expenditure relates to crime committed as a result of alcohol purchased during the late night supply period in the City of London. However, such precision could never be attained and does not need to be. The information provides a broad indication of the costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6 a.m.
22. The City Corporation has to have regard to the results of the consultation which are given below. The statistical analysis of the consultation can be seen as Appendix 2.
23. General comments relating to each of the eight main questions have been collated and presented as Appendix 3. A few of the responses make significant comments and have been reproduced in full as Appendices 4a to 4e.
24. The City Corporation also has to have regard to the financial risk in adopting the levy. With administration costs, and the impact of reductions and exemptions being taken into consideration, it would not be a viable proposition if the gross levy amount was to fall below £100k.

Response to the Consultation

25. There were 70 responses to the consultation. 34 of these were written responses and 36 responded online. 18 of these were from premises that currently have a license to sell alcohol after mid-night, 16 from premises that currently have a licence to sell alcohol up to mid-night, 5 from residents, 12 from Members (of whom 4 are also residents), and 19 others. Included in the 'other' category were responses from trade representatives, solicitors and companies representing a number of licensed premises in the City of London.

Question 1 - Do you agree that a late night levy be introduced in the City of London?

26. 67% of responses that answered Question 1 were in favour of the levy. Overall 27 of the premises selling alcohol after mid-night were represented in the responses, either directly or from being represented and included in the 'other' category ('affected premises'). Of these 70% were against the levy.

27. The City of London has 747 premises selling alcohol of which approximately 290 would be liable to pay the levy if there were no exemptions. The response rate from these premises was 9%.

Question 2 - Do you agree that if a levy was to be introduced it should operate between midnight and 6 a.m.?

28. The suggested hours of 00:00 to 06:00 were supported by 59% of respondents. The consultation sought views on alternative levy hours with 20% preferring 01:00 to 06:00, 12% preferring 02:00 to 06:00 and 9% preferring some other time period.

29. To avoid complications with premises unsure as to whether they fall within the levy period or not, all periods are recommended to run from one minute past the hour. The suggested hours within the consultation would thus be 00:01 to 06:00.

Question 3 – Do you agree that there should be no exemptions from paying the levy?

30. 43% of respondents agreed that there should be no exemptions. There was some support for other exemptions as follows:

- Premises offering overnight accommodation that sell alcohol only to guests – 26%
- Theatres and cinemas selling to ticket holders, participants and invited guests to a private event – 19%
- Bingo Halls – 10%
- Community Amateur Sports Clubs – 10%
- Community premises (successfully applying for the replacement of the mandatory ‘designated premises supervisor’ condition) – 14%
- Premises only selling alcohol in the supply period by virtue of the fact they are permitted to supply alcohol during this period on 1st January each year – 26%
- Business Improvement Districts – 11%

Question 4 – Do you agree that businesses meeting the ‘small business rate relief’ criteria should not receive a reduction?

31. 67% of respondents agreed that there should be no reduction for businesses meeting the ‘small business rate relief’ criteria.

Question 5 – Do you agree that premise meeting the requirements of the Safety Thirst Award Scheme should be entitled to a 30% discount?

32. 77% of respondents agreed that premises should receive a 30% reduction. The majority of respondents see the Safety Thirst award scheme as an additional means to reduce crime and disorder.

Question 6 – Do you agree that the minimum 70% of the net revenue raised from the levy should go to the Police?

33. 74% of respondents agreed with the split with the remaining 30% being retained by the City Corporation.

Question 7 – Do you agree with the way in which the City Corporation will spend their portion of the levy?

34. 77% of respondents agreed with the way in which the City Corporation were to spend their percentage of the levy.

Question 8 – Do you agree with the way in which the City of London Police will spend their portion of the levy?

35. 80% of respondents agreed with the way in which the City of London Police were to spend their percentage of the levy.

Implications

Financial

36. The first £15,000 per annum in a full year (£7,500 in 2014/15) will be retained by the City Corporation to meet the costs of administering the levy.
37. In addition, based upon the assumptions made in this report, the levy could generate up to £67,000 in a full year for the City Corporation to be applied in the prescribed manner. This figure makes allowances for exemptions and a number of businesses reducing their hours of operation to bring them outside the levy period. At the end of each financial year, a statement of the total levy payments for the year, including details of exemptions and discounts, will be prepared.
38. This additional revenue has to be spent on specified purposes within the parameters set out in paragraph 16, and the final allocation of these funds is still being determined. Most, or all, of the likely costs to be met from the allocation are new costs to the City Corporation, so there will be no overall net financial benefit.

Legal

39. The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended specify that the functions relating to the introduction of the late night levy has to be a decision of the full Common Council.
40. In making the decision whether to adopt the levy the City Corporation must consider the matters set out in section 125(3) of the Police Reform and Social Responsibility Act 2011 namely:
 - The costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am and,
 - Having regard to these costs, the desirability of raising revenue to be applied in the prescribed manner.
41. The City Corporation must take full and proper account of the consultation responses in deciding whether to introduce the levy and if so, the design of that levy.
42. The City Corporation may decide that there are some types of premises which should be exempt from the levy. The categories of exempt premises are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 and are set out in the City Corporation's consultation document (see Appendix 1). The City Corporation is unable to choose a category of premises for exemption from the levy if it is not prescribed in the regulations.
43. The City Corporation can decide to offer a reduction from the levy to best practice schemes that meet the criteria specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 as follows:
 - A clear rationale as to why the scheme's objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder;
 - A requirement for active participation in the scheme by members; and
 - A mechanism to identify and remove in a timely manner those members who do not participate appropriately

Eligible premises will receive a 30 percent reduction from the levy.
44. The net revenue must be split between the City Corporation and the City of London Police. The City Corporation must pay the Police at least 70% of the net levy. Costs incurred in the introduction, administration and collection of the levy may be deducted from the gross revenue prior to the levy being apportioned.

45. If the City Corporation decide to adopt the levy it must notify the Chief Officer of Police and all holders of licences which permit the supply of alcohol within the late night supply period. The Home Office Amended Guidance on the Late Night Levy recommends that the start date of the levy is set no less than three months after the notifications are sent. This will allow sufficient time for holders with a relevant late night authorisation to make a free variation to their licence to reduce their licensed hours to avoid operating within the late night supply period and thus avoid paying the levy.

Background Papers:

Report to Licensing Committee 22 October 2012: ‘Late Night Levy and Early Morning Restriction Orders’.

Report to Licensing Committee 14 January 2013: ‘Late Night Levy’

Appendices:

- Appendix 1** Consultation Document
- Appendix 2** Consultation statistical Analysis
- Appendix 3** Consultation general comments
- Appendix 4a-e** Full responses to consultation

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