

RESPONSE TO CITY OF LONDON CORPORATION LATE NIGHT LEVY CONSULTATION QUESTIONNAIRE (April 2014)

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Introduction to the Revised Consultation on the Introduction of a Late Night Levy

The City of London has re-issued its consultation on the introduction of a late night levy but has chosen not to disclose the reason for the decision to consult again and makes no reference to the responses received. The Licensing Committee were due to receive the “analysed result of the recent consultation to the next Committee Meeting in February”. The agenda for that meeting did not contain reference to any such analysis, nor was there any reference in the minutes of the meeting.¹

The revised consultation appears to be an attempt in some instances at least to re-butt the evidence and arguments put forward by the respondents to the consultation “a majority of which were from licensed premises”¹ (76 responses were received). This is not an opportunity afforded to those respondents.

We note the qualification given to any answer of ‘No’ in Question 1. It cannot be right that any further comment on the levy is to be disregarded if the respondent maintains his opposition to the levy. The levy is a complicated instrument and the response will vary in accordance to the decisions that might be made to various aspects of the levy. For instance a hotel operator may be opposed to the levy because as currently proposed the hotel operator has to pay the levy. If that were to change to exclude hotels the hotel operator may well revise his opinion.

Similarly being opposed to the levy should not preclude perfectly valid comments as to the time limits for such a levy were it to be introduced and other similar questions.

The police now acknowledge that “compared to other areas, crime numbers are low” but go on to say that “it is the duty of the City Police to identify appropriate areas to respond and fund those in any way that it can.” This is surely a spurious argument which ignores the efforts of the late night businesses to operate good businesses and co-operate in reducing

¹ 21 October 2013 Minutes of the meeting of the Licensing Committee held at the Guildhall EC2 at 1.45pm

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crime. It ignores the rights of those businesses whose only reward is to be asked to pay more.

The consultation makes the statement that “Although the number of alcohol related crimes have decreased in the last two years, there remains a significant number occurring between midnight and six in the morning.” The figures quoted for the year ended 31st October records a total of 48 offences between midnight and 6am, less than one a week and there is no evidence presented that these are all related to late night premises. Local community consultation undertaken by the police identify rough sleeping as the chief priority for the police, three out of four priorities being identified as such.²

We believe that the consultation is flawed and undemocratic in the way that it has been re-presented in this way and that no reference has been made to the prior consultation. Respondents have not even received an apology for the time and effort that has now to be put into making what is in effect a new response, since the form and nature of some of the questions have changed.

² <http://www.police.uk/city-of-london/cp/priorities/> (January 2014)

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Question 1

It is proposed that a Late Night Levy be introduced in the City of London in order to assist in the funding of the reduction and prevention of crime and disorder in connection with the late night supply of alcohol.

a) Do you agree that a late night levy should be introduced in the City of London? **Yes/No**

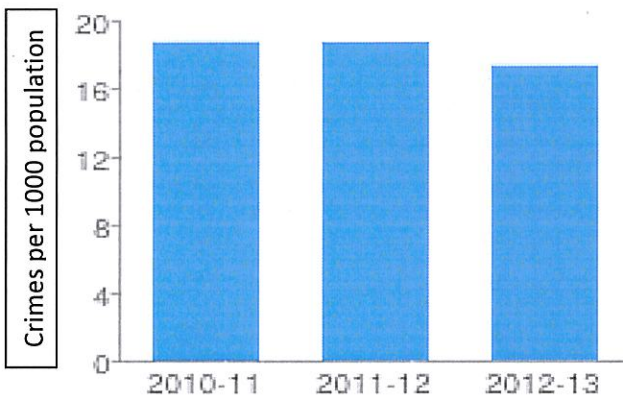
b) If not please give your reasons below?

(n.b. If you answer 'No' to this question, any further answers will only be taken into consideration if a Levy is introduced. Your opposition to the introduction of a Levy will still be noted and be of prime consideration in any decision made)

We do not agree and can see no basis on which we and others operating late at night should pay additionally for police services which are already provided.

As a responsible operator with premises in the City of London and throughout the UK we are fundamentally opposed to paying a levy to be able to continue trading with the hours that have been granted to our venues and to which no blame has been attached.

Marston's PLC operates The Rack and Tenter, the Pitcher & Piano, both of which have been granted late



night hours with permission to sell alcohol until 2am. In addition Marston's also operates, The Cockpit and The Pavilion End, public houses that do not serve alcohol beyond 11pm and midnight respectively but which would nevertheless be influenced if the late night economy of the City of London was to be adversely affected by the introduction of a levy. The consultation now acknowledges that the incidence of crime has fallen in the City of London as can be seen from the crime figures published both by the police

themselves³ and by the independent evaluation website CrimeStatsUK⁴

Independent information on force-level crime and anti-social behaviour provided by Her Majesty's Inspectorate of Constabulary shows that crime in the City of London "remained broadly stable between

³ <http://www.police.uk/city-of-london/cp/performance>

⁴ <http://www.ukcrimestats.com/>

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the years ending March 2011 and March 2012, and fell between the years ending March 2012 and March 2013. In the last year, crime was below the national average.”⁵

This is borne out in the monthly figures published by CrimeStatsUK⁶ shown below. ASB and Violent Crime which most closely reflect crimes that might be expected to arise in the Night Time Economy both show significant reductions over the last two and half years.

Crime in City of London Corporation

	ASB	Burglary	Robbery	Vehicle	Violent	Other Total	Total
Apr 2013	36	20	0	11	31	162	260
Mar 2013	35	4	3	8	28	184	262
Feb 2013	22	12	4	16	29	156	239
Jan 2013	34	25	3	11	21	208	302
Dec 2012	58	19	1	12	32	157	279
Nov 2012	43	14	3	7	28	159	254
Oct 2012	52	18	3	11	32	193	309
Sep 2012	63	12	4	5	24	186	294
Aug 2012	60	9	1	7	26	181	284
Jul 2012	81	36	2	15	35	219	388
Jun 2012	53	26	2	21	23	180	305
May 2012	59	19	1	8	26	185	298
Apr 2012	40	18	1	7	22	176	264
Mar 2012	55	8	1	16	25	201	306
Feb 2012	43	10	3	8	30	186	280
Jan 2012	51	17	2	5	25	137	237
Dec 2011	32	5	0	3	18	93	151
Nov 2011	141	17	3	11	55	343	570
Oct 2011	126	18	4	7	29	290	474
Sep 2011	129	25	2	13	46	396	611
Aug 2011	109	31	2	13	62	357	574
Jul 2011	169	27	5	10	62	380	653

⁵ <http://www.police.uk/overview/?q=City+of+London%2C+Greater+London%2C+UK>

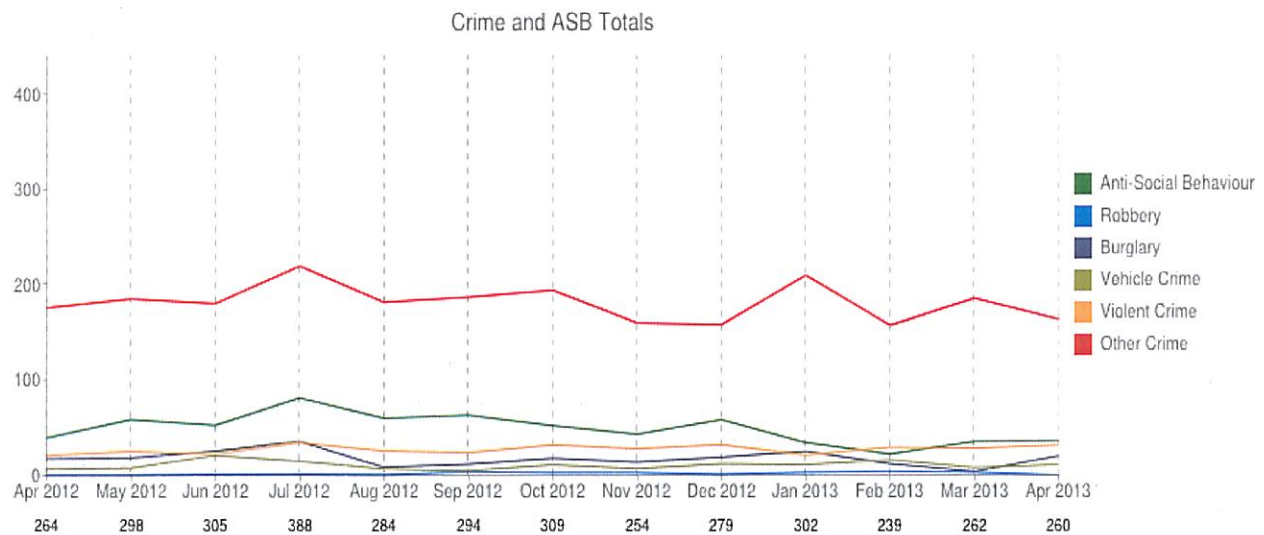
⁶ <http://www.ukcrimestats.com/Subdivisions/LBO/2512/>

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	ASB	Burglary	Robbery	Vehicle	Violent	Other Total	Total
Jun 2011	131	31	3	23	46	435	669
May 2011	160	26	5	16	53	384	644
Apr 2011	139	28	4	15	41	353	580
Mar 2011	130	14	3	19	60	436	662
Feb 2011	125	15	4	19	55	324	542
Jan 2011	121	14	1	20	64	342	562
Dec 2010	137	8	4	14	52	315	530

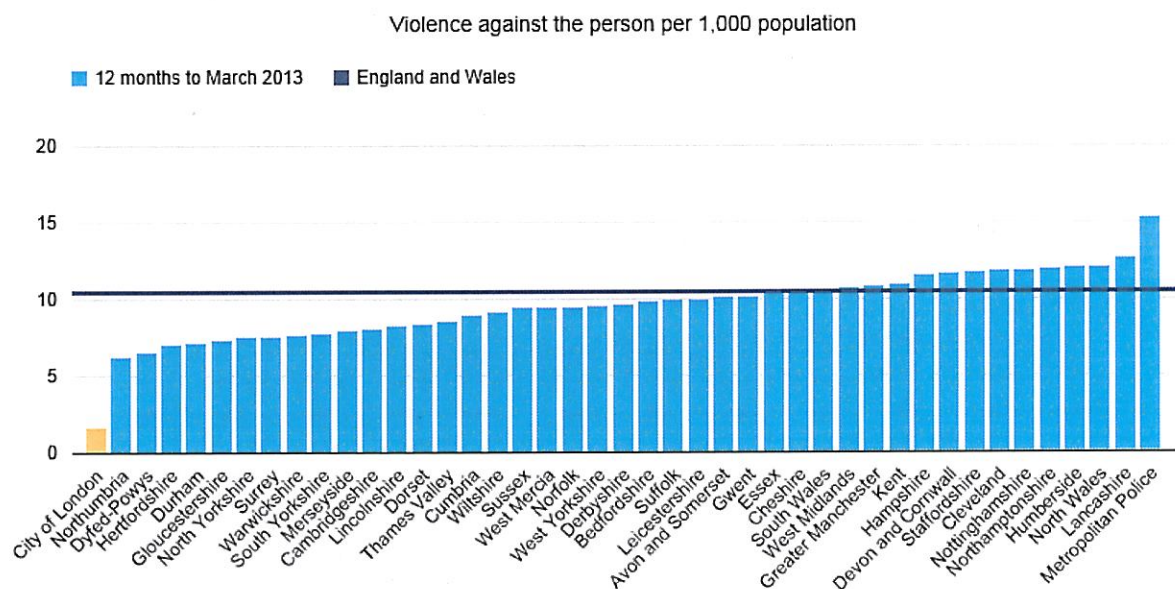
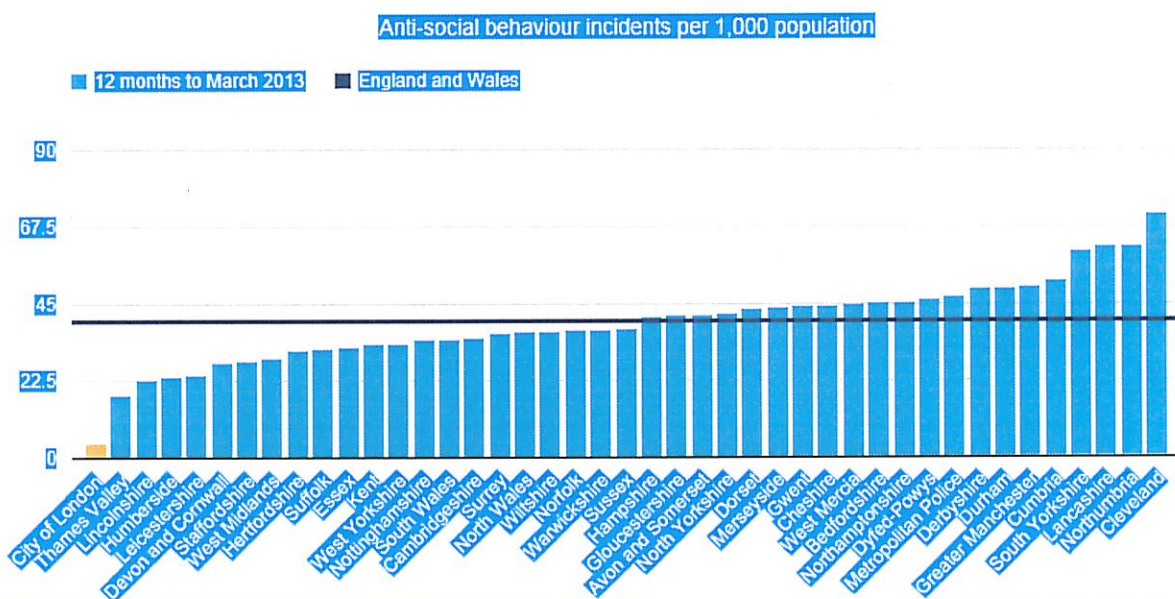
More recently published figures show that total crime had fallen from 260 in April 2013 to 236 in January 2014 with ASB falling from 36 to 23 in the same period.

These figures are shown graphically below:



Police figures also indicate that both in anti-social behaviour and violent crime the City of London has the lowest levels per head of population this despite having a low resident population of only 8,400 people, albeit supplemented by over 300,000 commuters and visitors each day, who are surely responsible for some of the crime committed.

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None of these figures indicate a serious or growing problem, quite the opposite making the case for increased funding much more unsustainable.

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More recent figures from the City of London Community Policing website⁷ report that the number of crimes in the City during January 2014 was 619 down from 696 in the previous January 2013, a reduction of some 11%.

The Licensing Authority itself does not seem to have any difficulty in granting later licences. If policing and general levels of disorder were a serious concern we would question why the Council has granted later hours to a number of venues over the last twelve months or so. These include the following:

REVOLUTION extended from 3am to 4am on Saturday nights; AMBER, CITY POINT from 2am to 4am; and COS BAR from 1am to 3am and a new application from Punch Taverns for BIRD OF SMITHFIELD which was granted 3am on Friday & Saturday nights and 2am the rest of the week.

This does not sound like an area that is having a problem with the policing of the evening economy. No serious objections appear to have been raised against any of these applications including the police.

This view is supported by the City of London Corporation Safer City Partnership who maintain that

"the City remains a safe place in which to live, visit and do business, is a source of great pride to those of us charged with its safety and wellbeing."⁸

Question 2

It is proposed that the Levy should be introduced for those premises who supply alcohol between the hours of midnight and 6 a.m.

a) Do you agree that if a levy was to be introduced it should operate between these times? Yes/No

b) If not, during what time period do you think the levy should operate and why?

- 1am – 6am
 2am – 6am

Any other time span (please state which time span) _____

Reasons for your choice of time period:

⁷ <http://www.police.uk/city-of-london/cp/>

⁸ <http://www.cityoflondon.police.uk/CityPolice/CommunityPolicing/About/SaferCityPartnership/#sthash.uanGYys6.dpuf>

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Since Marstons are opposed to the introduction of a levy it is placed in a difficult position in respect of the question of the charging period. The police evidence on the crime statistics does not provide the absolute number of offences but presents the data in terms of the percentage of alcohol related crimes throughout the day.

Data from CrimeStatsUK quoted under Question 1 on violent crime shows that in the 12 months to April 2013 there were 335 violent crimes in the City of London Corporation area and 634 in the area covered by the City of London Police Force. The police evidence presented in the consultation states that just over 50% of these are alcohol related which halves these figures to around 160 and 320 per year or less than one a day over the whole police force area. There is clearly a need for a more detailed examination of the figures used to justify the intervention of a levy.

Question 3

It is proposed that no premises should be exempted from paying the Levy.

a) Do you agree that there should be no exemptions? Yes/No

b) If not, which of the following types of premises do you think should be exempted from paying the levy? (mark each one you think should be exempted).

- | | |
|--------------------------------|-------------------------------------|
| Overnight Accommodation | <input checked="" type="checkbox"/> |
| Theatres & Cinemas | <input type="checkbox"/> |
| Bingo Halls | <input type="checkbox"/> |
| Community Amateur Sports Clubs | <input type="checkbox"/> |
| Community Premises | <input type="checkbox"/> |
| New Year's Eve | <input checked="" type="checkbox"/> |
| Business Improvement Districts | <input checked="" type="checkbox"/> |
| No Exemptions | <input type="checkbox"/> |

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c) If you have ticked one or more of the boxes above please give your reasons below.

Overnight Accommodation

The Government enabled Licensing Authorities to apply the exemption to hotels on the grounds that only bona fide residents would be exempt and that hotel bars would have to exclude members of the public at the times the levy applies to qualify for the exemption. We agree with this and would like to stress the importance of the hotel sector to the financial health of the City which provides facilities to both employers for business visitors and tourists which are vital to the economy as a whole. We can see no good reason to apply the levy to hotels.

New Year's Eve

The introduction of a general relaxation of opening hours over New Year's Eve has generally been recognised as a success and is a one off occasion that may be used by result in many businesses that are not open beyond midnight at any other time of the year. Those premises which retained the ability to open through new Year's Eve on the granting of 'grandfather rights' during transition to the new licensing Act would become caught up in a levy if the exemption were not granted. The Government recognised this through its concession to a non-fee paying application to remove the permission. They could then instead apply for a Temporary Event Notice (TEN) to restore the late opening for New Year's Eve, which rather defeats the extension of the late night n]levy to such premises.

Those premises that more generally trade later may also chose to reduce their hours, particularly if they don't actually trade that often into the early hours. Apart from reducing the amount the levy would raise this would almost certainly increase the reliance on TENs by those businesses.

A refusal to allow this exemption would result in the generation of a large number of Temporary Event Notices, resulting in extra work for the Council and police.

Business Improvement Districts

BIDs are an excellent way of improving city centres and other areas and should be encouraged. The Government permitted the exclusion of premises within a BID for the very good reason that they are worthy of support. There is every reason to believe that businesses within a BID area that are not exempted will not repeat their support of a BID in a subsequent ballot.

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While the City of London does not yet have a BID in place it should not exclude the possibility of providing an exemption for any future BID. We would also urge the Council to look at the benefits of the introduction of a BID and to consider the introduction of one before it introduces a levy. Experience in places such as Nottingham and Birmingham has demonstrated the beneficial effects of BIDS particularly in reducing crime in the Night Time Economy.

The Council's rationale for not applying any exemptions simply does not bear examination. There is clearly a difference in the size, scope and nature of the businesses liable to be included in a level. A late night club is quite obviously a different attraction from a hotel guest seeking a nightcap. Further it is far from the truth to assert that the council's "approach creates a level playing field for all affected premises". Those premises would strongly against and the contention that it "keeps administrative burdens and costs to a minimum" may be true for the Council it should not for businesses to pay higher charges simply for the convenience of the Council.

Question 4

It is proposed that premises meeting the necessary 'small business rate relief' criteria should not be entitled to a reduction in Levy.

a) Do you agree that such premises should not receive a reduction? Yes/No

b) If not, please give your reasons below?

We rather doubt that there are any businesses that qualify within the City of London but if there are the Council should apply the exemption. A business with a rateable value of £12,000 in the City of London or less will be selling little very alcohol. The council figures show that there are only 7 premises in Band A that would fall under the exemption. There are only a further 16 premises that come under Band B having a rateable value up to £33,000. Assuming that half of these have a rateable value below under the £12,000, that would still only leave 15 exempted premises out of the 747 identified by the Council. The regulations allow for exemption for premise up to a rateable value of £12,000 for a good reason and the Council should re-consider its position on this.

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Question 5

It is proposed that those premises meeting the requirements of the Safety Thirst Award Scheme should be entitled to a 30% reduction in their Levy payment.

a) Do you agree that such premises should receive a 30% reduction? Yes/No

b) Please give your reasons below

While we agree that the inclusion of Thirst Award Scheme in the entitlement to a 30% reduction we also urge the council to look at schemes more in the terms expressed by its own Licensing Committee who said when considering both EMROs and the Late Night Levy in October 2012:

"There are other wider considerations which may also be taken into account such as: the economic effects of the levy on operators, City Police's own capacity to fund crime prevention, the effect of the levy on voluntary schemes for reducing crime and disorder (Safety Thirst), whether there are any alternative means to reduce crime and disorder such as a Business Crime Reduction Partnership, and the equitability of changing the burden to operators rather than the community. These options would be addressed in any further detailed report on this issue."

That the Council now considers Safety Thirst as qualifying for an exemption, a provision not made in the earlier consultation, is to be welcomed but we are bound to observe that the introduction of a levy will attack the very heart of the voluntary scheme and that despite attracting the reduction, businesses will be reluctant to participate. If they do continue to participate they may do so for the wrong reason.

The consultation makes no mention of Pubwatch. There are number of Pubwatch schemes within the City and we firmly believe that these best practice schemes are worthy of a discount and to deny them this facility may well prove counter-productive. The police and the Corporation both benefit from good partnership working and to refuse the discount would demonstrate bad faith to those schemes that are keen to work in partnership.

Pubwatch qualifies as a good practice schemes under the regulations.⁹ We urge the council to consider their inclusion in the 30% allowable reduction category, if the levy is adopted.

In its publication "Calling Last Orders"¹⁰ the City of London Police pledge to "Work with partners, community, stakeholders and businesses to reduce precursory issues that lead to violence and related offences. We will listen to their concerns and respond appropriately." The introduction of a levy will

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¹⁰ <http://www.cityoflondon.police.uk/NR/rdonlyres/CEF41A93-19FA-41BA-A90B-1258B48B75E5/0/LastOrdersV2.pdf>

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make this task more difficult and a refusal to allow the discount can only exacerbate that and lead to a deterioration in the willingness to collaborate.

The Council should also ensure that it has the ability to provide any future BID with the same discount if exemption is not granted to that BID, thereby removing the need for a separate consultation.

Question 6

It is proposed that the income raised from the Levy should be divided between the Local Authority and the City of London Police with 30% going to the Local Authority and 70% to the Police.

a) Do you agree that the net revenue from the levy should be split in this way? Yes/No

b) If not, please give your reasons for this and the split you feel would be more appropriate (Please remember that the Police cannot receive less than 70%).

Question 7

It is proposed that that income from the Levy received by the Local Authority will be spent in accordance with paragraphs 5.10 and 5.11 of this document.

a) Do you agree with the way in which the Local Authority will spend their portion of the levy. Yes/No

b) If not, please give your reasons below and any suggestions you have for ways in which the money can be spent (please remember that the money can only be spent on those areas described in paragraph 5.3 of this document.)

Again the proper answer to the question is not a simple yes or no. We are disappointed that the Council has not been more imaginative in use of the potential income raised by a levy. The emphasis again is on enforcement against premises, the vast majority of whom take great pains to comply with the law, since their livelihood and continues existence depends upon it. With crime figures falling there has been no recognition that responsible operators have played in contributing to that fall. The industry has engaged in and promoted many good practice schemes from pubwatches, through Best Bar None, Challenge 21 and so forth.

We seriously question whether the council will be able to deliver its programme when the council's estimate of the amount of its share is £66,668 when the two identified costs of £57,000 (additional post) and £23,000 (night time response) amount to £70,000. The estimate appears to exclude the cost of the

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'team of officers to work during the midnight and 6am' the additional post being =created to operate the Code of Practice and Risk Assessment scheme.

The Council assumes that the levy will not affect businesses or the decisions they make. This is not true and is demonstrated by the Council's own assessment that 30% will most likely reduce their permissions to trade to avoid the levy. At the same time the amount raised for the council is assessed at only £66,668, not a particularly significant sum and one that is likely to be diminished further if the £15,000 allocated for administration proves an under-estimate.

Question 8

a) Do you agree with the way in which the Police will spend their portion of the Levy? Yes/ No

b) If not, please give your reasons below giving examples where possible of how you think the money would be better spent.

The consultation reports that the police have now identified the funding of three additional officers but do not attribute a cost to that, leaving the question as to whether they are funding full-time posts. The only specific cost identified is that of that to cover the police costs associated with the discharge of their responsibilities under the Act, including dealing with Temporary Event Notices. This is an entirely inappropriate use of the funds provided under the terms of the levy. The Licensing Act, 2003 did not provide funding to the police for discharging its duties under the Act and little of this identified cost would be incurred by the businesses covered by the levy, since they would have little need of TENs.

The police bid for funding appears to rely primarily on the fact they have not discharged their duty in the past if "problem" premises have been identified but have not been dealt with.

We are extremely disappointed and concerned that the police cannot see any better way to allocate additional funds to activity that is already covered and are not looking to tackle one of the root causes of any crime and that is the individuals themselves. The arguments put by Government for the introduction of the levy and Early Morning Restrictions under the Police Reform & Social Responsibility Act 2011 was that there were needed where there were problems despite the presence of well-run businesses. The action proposed by the police should already have been taken against businesses that do not comply. There would be more sympathy for levy if the resources were directed at irresponsible and criminal individuals. There is no suggestion that any additional policing is being placed in this direction.

Paragraph 5.9 of the consultation states that the police would "allow the Licensing Team to further its partnership working" identifying those partners which do NOT include the trade. This is a fundamental oversight indicative of the failure of the police to properly engage businesses in the partnership. On this

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basis alone we object to the imposition of a levy. The police must learn to work in partnership with business. The Code of Practice or any other initiative has little chance of success without that understanding.

Question 9

Have you any other comments to make regarding the introduction of a Late Night Levy?

We are disappointed that the Council has not seen to enter into any prior discussion with the businesses directly affected by the proposal. We note that the Council has withdrawn its statement from the revised consultation that "it is the view of the licensing authority that a levy should be introduced in order to contribute to the costs of policing the late night economy", we are worried by the thought that this remains the view of the Council and that the outcome of the consultation has been pre-determined.

We remain disappointed that the undertaking that "Officers would bring the analysed result of the recent consultation to the next Committee Meeting in February"¹¹ has not been honoured and that the Licensing Committee did not get the opportunity to see those responses. Nor does the Committee appear to have any influence as to the need for or form of the revised consultation.

The Council has not sought to make any assessment of the economic effect on the businesses concerned nor the activity within the night time economy that might be reduced. The City is a big draw for businesses and tourists alike and withdrawal of some of the venues from the market late at night might affect the attraction of the City as a place of entertainment.

The police have not made a case for the levy either in terms of the crime rate, or of their funding needs and the levy looks like what it is, a way of raising additional money. At best the money raised will go towards more enforcement activity on venues rather than on individuals where we believe any such additional funding would have the most beneficial effect.

In its report of the Licensing Committee's meeting on the 22nd October of last year (2012) the committee determined (Paragraph 15) that

"There are other wider considerations which may also be taken into account such as: the economic effects of the levy on operators, City Police's own capacity to fund crime prevention, the effect of the levy on voluntary schemes for reducing crime and disorder (Safety Thirst), whether there are any alternative means to reduce crime and disorder such as a Business Crime Reduction Partnership, and the equitability of changing the burden to operators rather than the community. These options would be addressed in any further detailed report on this issue."

¹¹ 21 October 2013 - Minutes of the meeting of the Licensing Committee held at the Guildhall EC2.

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We can find no evidence that any such investigations have been carried out and that contrary to the Committee's wish that these other concerns be addressed the City of London have proceeded on the basis of the Corporation's officials which is reported in Paragraph 22 of the same meeting which states that:

We believe that the consultation is seriously flawed in both the evidence it presents and the reasoning, such as it is, neither of which justify the introduction of a levy. The Council should rather be encouraging a productive dialogue between businesses, police and itself taking a partnership approach to improving the social amenities for the residents and visitors to the City. Without such an approach we are firmly of the opinion that the levy will not only do little or nothing to address anti-social; behaviour and other alcohol-related crime but runs the real risk of producing counter-intuitive results leading to a worsening of the situation and alienation of those businesses operating in the area who are best placed to help.

We urge the Council to re-consider its proposal.

Thank you for completing this questionnaire. Could you please indicate below the capacity in which you are making your comments?

- Licensed Premises (with licence to sell alcohol after Mid-night)
- Licensed Premises (with licence to sell alcohol no later than Mid-night)
- Non-Licensed Business (no licence to sell alcohol)
- Resident
- Alderman or Common Councilman

- Other (please state)

We are happy to accept the consultation questionnaire anonymously but if you would like to tell us who you are then please complete your details below:

Name: **John Gaunt & Partners:** Omega Court, 372-374 Cemetery Road ,Sheffield S11 8FT
Email: info@john-gaunt.co.uk

Organisation you represent (if relevant): **Marstons PLC**

