

Committee(s)	Dated:
Licensing Committee	03 02 2021
Subject: Late Night Levy – 12 Month Report (1 October 2019 - 30 September 2020)	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1,2,5,12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	n/a
What is the source of Funding?	n/a
Has this Funding Source been agreed with the Chamberlain's Department?	n/a
Report of: Director of Markets & Consumer Protection	For Decision
Report author: Peter Davenport - Licensing	

Summary

A Late Night Levy has been operating within the City of London since 1 October 2014. This report looks at the sixth year of operation and details the number of premises that are paying the Levy, the income collected and how that money has been spent to date.

The evidence shows that a similar number of premises were liable to pay the Levy at the beginning of the sixth Levy as at the beginning of the first Levy Year.

The income collected has enabled the licensing service to continue operating its best practice Safety Thirst scheme. The City of London Police and the Department of Built Environment's Cleansing service have been able to put additional resources into those areas that are affected by the night-time economy, directly affecting the levels of crime and disorder and public nuisance.

The report looks at the effect the COVID pandemic has had on the collection of fees, the likely effect it will have during the seventh Levy year and the effect on the 2020 Safety Thirst Scheme. The report also looks at the issue of collecting the Levy, for those premises that trade after midnight, as during the 2019/20 Levy year Government restrictions have meant that those premises have not been permitted to trade after midnight for many months.

Recommendation(s)

Members are asked to:

1. Note the contents of this report.
2. Agree the policy regarding the collection of Levy outlined in paragraphs 11-14

Main Report

Background

1. The Police Reform and Social Responsibility Act 2011 introduced the power for licensing authorities to impose a Late Night Levy on those premises selling alcohol after midnight. The aim of the Levy is to empower local areas to charge businesses that supply alcohol late into the night for the extra costs that the night-time economy generates for Police and Licensing Authorities.
2. On the 28 April 2014 this Committee considered a report on the introduction of such a Levy within the City of London and recommended to the Court of Common Council on 12 June 2014 that the Levy be adopted. The Levy was adopted and introduced within the City from 1 October 2014.
3. The Levy is applied to all premises selling alcohol after midnight between the hours of 00:01 and 06:00. Premises selling alcohol after midnight due solely to a condition permitting them to sell on New Year's Eve would still be liable to pay the Levy.
4. There is no discretion in law to waive the Levy. Non-payment of the Levy must result in suspension of the premises licence under section 55A of the Licensing Act 2003. As the Levy is payable where the licence permits trade after midnight, it falls payable whether the business is able to trade or not due to Government restrictions.
5. Officers have been working with colleagues at the Local Government Association, Greater London Authority, Institute of Licensing and the London Licensing Managers Forum to lobby the Home Office to change the legal position. To date, they have been unwilling to do so.

Current Position

Premises Liable

6. In the April 2014 report to this Committee there were 290 premises that were expected to pay the Levy when it became effective assuming none wished to vary their hours for free prior to the Levy starting. During the first Levy Year (October 2014 to September 2015) 308 premises paid the Levy whereas during the sixth Levy Year (October 2019 to September 2020) 330 premises were subject to the Levy. This would appear to indicate that the Late Night Levy is not a deterrent to those premises wishing to operate after midnight from doing so.

Generated Income

7. The amount of the Levy is prescribed nationally and is based on the premises rateable value. The annual charges for the Levy, weekly equivalents, and the number of premises within the City of London falling within each rateable band are as follows:

Table 1: Levy Payable by Premises

Rateable Value (£)	Rateable Band	Amount of Levy (£)		No. of Premises
		Annual Levy	Weekly Equivalent	
0 – 4,300	A	299	5.75	9
4,301 – 33,000	B	768	14.77	11
33,301 – 87,000	C	1,259	24.21	95
87,001 – 125,000	D	1,365 (2,730*)	26.25 (52.50*)	49
125,001 +	E	1,493 (4,440*)	28.71 (85.39*)	166

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

8. The total amount collected in each Levy Year to date, and the apportionment between administration costs, the City of London Police and the City Corporation each year, is shown in Table 2 below. Forecast income for the first half of the seventh Levy Year (Oct 2020 – Mar 2021), is expected to remain broadly in line with the same period in previous years.

Table 2: Levy Income and Apportionment by Levy Year

Levy Year	Total Collected £000*	Admin Cost £000	Police Share (70%) £000	City Share (30%) £000
1 (Oct 14 – Sep 15)	445	25	294	126
2 (Oct 15 – Sep 16)	468	15	317	136
3 (Oct 16 – Sep 17)	454	15	307	132
4 (Oct 17 – Sep 18)	438	15	296	127
5 (Oct 18 – Sep 19)	462	15	313	134
6 (Oct 19 – Sep 20)	448	15	303	130
7 (Oct 20 – Mar 21) (part year)	146	5	99	42
TOTAL	2,861	105	1,929	827

**NB. 'Total Collected' figures for Levy year 6 and 7 are for fees due. They do not reflect the amount of fees that have actually been collected. (See paragraphs 14-15 below).*

Implications of the COVID-19 pandemic

9. Since the end of March 2020 premises that pay the Levy have not been permitted to fully trade due to restrictions placed on them by Government in order to prevent the spread of Coronavirus. However, legislation states that the Levy has to be paid at the same time as the premises licence fee is due otherwise a Local Authority must suspend the licence.

10. With premises under varying levels of restrictions and intermittently not being permitted to open, let alone trade after midnight, there is some concern that premises have to pay the Levy in order to maintain their premises licence and this is not equitable as they have been unable to trade.
11. The Licensing Team have delayed the suspension of premises' licences for two to three months in order to assist businesses as much as possible during these difficult times. However, premises that have not paid their licence fee and/or their Levy have now been suspended where that payment falls due in, or before, November 2020. Premises licences will continue to be suspended two to three months following non-payment of their fees/Levy unless a payment plan has been agreed (see paragraph 12).
12. From now until the end of September 2021 (i.e. the end of Levy year 7) where a premises licence fee/Levy falls due, and their previous fee/Levy is paid up to date, the licensing team will continue to permit payment of this new fee/Levy to be paid in instalments across a maximum of 12 months on request. Failure to adhere to the payment plan would result in suspension of the premises licence.
13. However, where a premises licence fee/Levy falls due and their previous fee/Levy is still outstanding and the premises licence has been suspended, all fees/Levy must be paid in full before the premises can commence trading. This is an unfortunate legal consequence of the premises licence being suspended. All premises will be notified of this position and be given the opportunity to pay their fees up to date before the 'new' fee/Levy becomes due. Their premises licence will then be 're-instated' and they will be able to use the facility to pay the 'new' fee/Levy by instalments once it falls due.
14. To date, approximately £190k of Levy payments remain outstanding during Levy year 6 across 131 premises. As explained in the previous paragraphs this outstanding sum will be collected once premises commence trading, unless the premises has permanently closed. In this situation any debt will be written off.
15. We are only currently aware of 7 premises that have closed permanently with their future position not yet known. It is therefore expected that income in the seventh Levy year will remain broadly in line with previous years. However, if the number of premises that permanently close increases without being replaced by new occupiers who apply for a licence, Levy income would reduce, impacting on the funds available to the City Corporation and the City of London Police to support the night-time economy.

Safety Thirst Scheme

16. Legislation permits a Local Authority to give a 30% discount on the Levy payment for those premises that participate in a best practice scheme. The scheme has to show why membership of it is likely to result in a reduction of alcohol-related crime and disorder, there is a requirement for active participation by scheme members and those members who do not participate appropriately can be removed from the scheme. The scheme currently used by the City Corporation is the Safety Thirst Scheme.
17. The Safety Thirst Scheme has been running for a number of years but was completely revamped in 2014 prior to the Levy being adopted. It lays down a set

of criteria in a number of areas that premises either must meet or are expected to meet. Those premises meeting the 'must meet' criteria can join the scheme and receive a 30% discount in their Levy payments.

18. The number of premises achieving membership of the scheme during 2015 was 32 of which 26 were subject to the Levy. The number achieving membership in 2019 was 72 of which 64 were subject to the Levy.
19. Due to the impact of the Government's COVID-19 restrictions meaning that premises were not able to trade fully, the Licensing Team did not operate the Safety Thirst Scheme during 2020. All those achieving membership during 2019 will have their membership extended for a further 12 months. It is hoped that the scheme will be able to recommence in 2021.

How the Levy has been spent – City Corporation

20. The City Corporation are required to spend their allocation of Levy money 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
21. Of the total Levy funds apportioned to the City Corporation to the end of 2020/21 the following amounts have so far been spent or committed:

Table 3: City Corporation Levy Expenditure to 31 March 2020

(expenditure shown in terms of financial years)

Financial Year	Area of expenditure	Cost £000	
2015/16	Out of Hours Team	20	
	Funding of Licensing Posts	30	
	Cleansing	34	
	Total 2015/16		84
2016/17	Out of Hours Team	20	
	Funding of Licensing Posts	27	
	Cleansing	34	
	Club Soda	28	
	Total 2016/17		109
2017/18	Out of Hours Team	21	
	Funding of Licensing Posts	44	
	Cleansing	34	
	Club Soda	10	
	Total 2017/18		109

2018/19	Out of Hours Team	20	
	Funding of Licensing Posts	45	
	Cleansing	34	
	Additional Cleansing	28	
	Club Soda	18	
	Night Time Economy Review	10	
	Total 2018/19		155
2019/20	Out of Hours Team	28	
	Funding of Licensing Posts	50	
	Cleansing	34	
	Community Drugs Safer Nightlife	10	
	Total 2019/20		122
2020/21	Out of Hours Team	41	
	Funding of Licensing Posts	55	
	Cleansing	18	
	Total 2020/21		114
	Total Expenditure		693
	Unspent Balance		133
	Total Levy Funding (COL)		826

- a) Out of Hours Team. The out of hours team gave additional support to the Corporation's Pollution Control Team and operated Monday to Friday between 17:00 and 08:00 and provided a 24-hour service at weekends. The team consists of Street Environment officers and provides a rapid response to complaints relating to public nuisance – usually in the form of noise. In addition, the team are able to proactively identify areas via patrols where, although no complaint has been received, problems do, or may exist. This information is reported back to the Licensing Service who can visit the premises concerned and discuss ways in which problems can be avoided. The service has continued to operate through the pandemic and has provided invaluable intelligence to the City of London Police and other regulators in relation to compliance with Government restrictions including closure and curfew.
- b) Part funding of Licensing Team posts. In order to help prevent problems occurring, the City Corporation introduced a Risk Assessment (Traffic Light) Scheme whereby issues relating to premises carry a score which is recorded and used to identify where problems may occur. The Licensing Service, City Police and any other concerned service are then able to meet with the premises and discuss ways in which problems can be avoided. In addition, the Licensing Team operate a Safety Thirst scheme which ensures premises meet standards laid down in the Corporation's licensing code of conduct for which they receive a 30% discount off the Late Night Levy if applicable. The scheme was previously operated by staff with no means of sustaining their funding. Although the risk and traffic light schemes are for all premises, over 90% of them sell alcohol after midnight.
- c) Cleansing – The Department of the Built Environment provides a cleansing service through their term contractor Veolia that is funded from the Levy. This service covers all areas of the City and operates Thursday to Sunday (inclusive) during the hours that the Levy is applicable.

The smaller cleansing costs for 2020/21 reflects the fact that licensed premises were not permitted to trade for several months during the Levy year and additional cleansing was not required.

This service has a positive effect on the cleanliness and image of the City. The cleansing management team believe that this service addresses the additional challenges raised by the increasing night time economy. The service is monitored by the Street Environment Team (COL) and Veolia Managers to make sure the required standards are achieved.

22. Table 3 shows that a total of £693k has been spent or committed by the City Corporation to the end of March 2021. Once licensed premises are permitted to trade after midnight again, discussions will be had between relevant parties in order to ascertain the most appropriate way in which the unspent balance of £133k, and the ongoing income in future Levy years, can be used to support the trade. This will include consultation with the Levy payers.
23. Any income will only be spent in accordance with paragraph 20.

How the Levy has been spent – City of London Police

24. Unlike the City Corporation, the City of London Police does not have restrictions as to what they can spend their allocation of the Levy on. However, it has been indicated that the money would be used to fund additional work related to policing of the Night-time Economy.
25. A Levy Planning Board (LPB) meets quarterly to discuss Levy spend by the Police and to co-ordinate expenditure between the Police and Local Authority.
26. LPB meetings are chaired by the Chief Superintendent of Uniformed Policing and attended by other representatives of CoLP and COL including Licensing, Environmental Health, Community Safety and Finance.
27. The governance of this meeting replaces the requirement for requests for Levy funds to go to Force Tasking for approval. Until further notice, the management, accounting and allocation of monies will be overseen out by the City Corporation, once approved by the LPB.
28. The Levy funds two City of London Police officers within the Police Licensing Team. Once premises commence trading, the Levy will fund at least 3 night-time deployments to police the night-time economy and a night hub/medical triage centre once a suitable venue has been found. Details of the City of London Police Levy expenditure can be seen as Appendix 1.

Financial Implications

26. Any money retained by the City Corporation from the Levy income must be spent on the areas referred to in paragraph 18, although it does not have to be spent in the same Levy year in which the income was generated.
27. Any expenditure in excess of the income received would need to be met from existing local risk budgets.

Conclusion

28. The number of premises liable to pay the Levy has not reduced significantly in Year Six, subject to the full known effects of COVID-19 restrictions.
29. Forecasts for the seventh Levy Year (1 October 2020 to 30 September 2021) are that income is likely to be maintained at a level similar to the first five years, although this may be impacted if there is an increase in premises that close permanently and are not replaced by new occupiers.
30. With Police achieving results which are likely to directly reduce the incidence of crime and disorder, it would appear that the Levy money continues to have a positive effect on the night-time economy.
31. Officers will continue to collaborate with colleagues across London and nationally to lobby the Home Office to provide legislative flexibility to the Levy regime.

Appendices

- City of London Police Expenditure

Background Papers

- Home Office 'Amended Guidance on the Late-Night Levy' – 24 March 2015

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