



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 21 May 2013
6.00 pm

Municipal Offices, Promenade, Cheltenham, GL50 9SA

Membership	
Councillors:	Steve Jordan, John Rawson, Rowena Hay, Peter Jeffries, Andrew McKinlay, Jon Walklett and Roger Whyborn

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING Minutes of the meeting held on 16 April 2013	(Pages 1 - 12)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	PROPOSAL TO ADOPT A LATE NIGHT LEVY Report of the Cabinet Member Housing and Safety	(Pages 13 - 42)

		SECTION 6 : BRIEFING SESSION • Leader and Cabinet Members	
6.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS AND OFFICERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	

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Cabinet

**Tuesday, 16th April, 2013
6.00 - 7.15 pm**

Attendees	
Councillors:	Steve Jordan (Leader of the Council), John Rawson (Cabinet Member Finance), Rowena Hay (Cabinet Member Sport and Culture), Peter Jeffries (Cabinet Member Housing and Safety), Andrew McKinlay (Cabinet Member Built Environment), Jon Walklett (Cabinet Member Corporate Services) and Roger Whyborn (Cabinet Member Sustainability)
Also in attendance:	Councillor Duncan Smith, Councillor Andrew Chard, Councillor Barbara Driver and Councillor Robert Garnham

Minutes

1. APOLOGIES

There were none.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

RESOLVED THAT

The minutes of the meeting held on 12 March 2013 be approved and signed as a correct record.

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

There were no public questions or petitions.

The following responses were given to the 4 member questions submitted by Councillor Rob Garnham :

1. What was the cost of removing the previous system and acquiring and installing the new system?

Response from Cabinet Member Built Environment :

The cost of acquiring and installing the new parking system in Regent Arcade to replace the existing aged and unreliable machines, including upgrading works to replace computer software and changes to the barrier operation (to reduce previous problems with the entry of oversize vehicles) was budgeted at £120 000. Spend and commitments against this budget in 2012-13

amounted to £87 250 and it is anticipated that total costs will be well within budget.

2. What has been the cost to date of providing assistance at each level of the car park to assist customers to operate the payment machines?

Response from Cabinet Member Built Environment :

Regent Arcade has never been operated without a staffing presence and to my knowledge, no-one has been employed with the sole purpose of providing assistance with using the new machines installed.

3. For how many hours each day and for how many days per week has it been necessary to provide this assistance?

Response from Cabinet Member Built Environment :

A CBC Staffing presence is maintained within Regent Arcade during the full opening hours of the car park from 7.30 am to 12.30 am.

4. How much revenue was lost on days when parking has been free due to the failure of the new system?

Response from Cabinet Member Built Environment :

There have not been any failures of the new system simply due to it being a new system. I understand that the only down time has related to failures of the credit card element of the system (Barclaycard), linking to power outages (most recently affecting a large part of the town centre). This would have been a problem with the old system, which was subject to more frequent reliability problems.

There were no supplementary questions.

5. LICENSING OF RICKSHAWS IN CHELTENHAM-REFERRAL OF THE OVERVIEW & SCRUTINY COMMITTEE

The Leader indicated that Mr Meyer, of Rickshaw Revolution, had approached him before the meeting requesting that he ask a question at the meeting. The Leader said he had been minded to agree to this but as Mr Meyer was not present at the meeting for this agenda item that would not be possible.

The Leader invited Councillor Smith, as Chair of Overview and Scrutiny to address Cabinet. He outlined the contents of the report and highlighted that the call-in of the decision had focused on the decision-making process as opposed to taking a view on whether rickshaws should be licensed in Cheltenham. He made the following points :

- The failure of Cabinet to make their intent clear by taking a clear decision undermined their intent and created uncertainty as to the council's position. Cabinet should agree a clear recommendation in

favour or against changing the current policy and refer the matter to full Council.

- From the evidence gathered at the call-in if Cabinet were minded to defer the decision on the grounds of safety issues they need to support this with a clear and specific statement about exactly what these concerns relate to so that they can be addressed by potential applicants in any subsequent applications
- The Chief Executive should look at the process and consider where practice can be improved to ensure that members of the public are kept well informed and do not suffer unnecessary delays.
- There should be clarity of aims and desired outcomes for the applicant and this should be remedied by a clear decision being taken by Cabinet with referral to Council for approval.
- O&S were concerned that this report had not been brought to an earlier meeting of Cabinet given that the report had been finalised in early February

In response the Cabinet Member Housing and Safety observed that in his view the report did not reflect the O&S call in meeting. He explained that despite the criticism regarding the length of time taken and the manner in which the issue of licensing rickshaws had been dealt with, he was confident that it had been an open, honest and professional process. Officers had been diligent in their research in drawing up a draft policy. In terms of the safety issues there had been a number of cabinet reports and a public consultation but there were a variety of differing schemes, licensed and un-licensed. A major issue had been the complex nature of the statutory legislation which was effectively inadequate for the licensing of Hackney Carriage Rickshaws. He emphasised that rickshaws could operate in the town without a licence on a contract basis. He reaffirmed Cabinet's commitment to supporting businesses and entrepreneurs within the boundaries of the legislation.

The Cabinet Member Housing and Safety reminded those present of the resolution made at the December 2012 Cabinet meeting which was to "defer a decision on the licensing of rickshaws in Cheltenham until the outcome of the taxi and private hire licensing law reform review by the Law Commission is published in 2013/14" He then referred to an interim statement published on 9 April "During consultation many stakeholders complained about vehicles operating at the fringes of licensing, or outside licensing altogether. Pedicabs and stretch limousines are two examples that we recommend bringing clearly within the scope of taxi and private hire regulation, such that they may be controlled as necessary" It continues to state that "the Law Commission plan to publish a final report with our recommendations and a draft bill by late 2013".

On a procedural note the Chief Executive intervened and explained that should Cabinet wish to have a policy this would have to be submitted to Council for approval. If Cabinet did not wish to have a policy this decision would not need to be submitted to Council. However, he stated that any member of the Council was able to submit a motion to Council.

Cabinet Members agreed that it was important for the council to provide a coherent policy and this should be supported by government legislation. The proposed resolution was therefore explicit in that it would not licence rickshaws

within the limitations of the current legislation. This did not however prevent the operation of rickshaws on a private basis.

The Chair of Overview & Scrutiny stated that he was now happy that Cabinet was discharging its duty correctly but regretted that this had not been done at the December 2012 meeting. He emphasised that the O & S report was cross-party and the purposes of the call in was to examine how the decision was taken without taking a view on whether rickshaws should be licensed.

The Leader of the Council stated that this was a positive way forward. He recalled that the applicant, Mr Meyer, had said on a previous occasion that the draft policy devised by officers would be unworkable and in this respect it was agreed important to wait for the legislation.

RESOLVED

- 1. The proposed draft policy presented to Cabinet for consideration at 11 December should not be adopted.**
- 2. The issue should be reconsidered when the outcome of the taxi and private hire licensing law reform review by the Law Commission is published.**

6. REPORT OF THE SEX TRADE SCRUTINY TASK GROUP

The Chair of the Sex trade in Cheltenham Scrutiny Task Group, Councillor Driver, was invited to address Cabinet. She gave a brief overview of the report which had been endorsed by Council on 22 February 2013 and was now being forwarded to Cabinet for approval.

The Cabinet Member Housing and Safety thanked Councillor Driver and the task group for its report. The task group had recognised that combating sexual exploitation was not a primary role for the council and that there were multi-agency issues that require partners to work together to achieve the best outcomes for the people of Cheltenham. Whilst CBC had a Designated Safeguarding Officer particular reference was made to the Cheltenham Safeguarding Forum, the Positive Lives Partnership and the voluntary and community sector. The Cabinet Member therefore found it difficult that the Cabinet was being asked to agree specific actions for the council outside of the multi-agency approach. He suggested that the Safeguarding Forum consider the report at its meeting on 26 April, the Positive Lives Partnership at its meeting on 23 May and that the Safeguarding Officer collate the responses and bring a report back to Cabinet. He also suggested that the Chief Executive forward the task group report to Gloucestershire's Police and Crime Commissioner and the Police and Crime Panel inviting any comments.

The Leader of the Council thanked the working group. He said that whilst Cheltenham did not have a specific problem, a problem did exist and it was therefore appropriate to ask the relevant bodies to examine the report and this would then be fed back to Cabinet.

The Chair of the scrutiny task group then requested that these multi-agency bodies also be asked to look into the grooming of young people as the scrutiny task group had not been able to cover this issue.

The Cabinet Member agreed to take this forward. In addition the Chief Executive explained that one of the strands of work of the Police and Crime Commissioner was a "safe days and nights" group which could cover the issue of grooming of young people. There was also an area of activity on countywide domestic abuse and the Chair of this group was the Executive Director, Pat Pratley. Councillor Driver was therefore invited to feed into this group via this means.

RESOLVED THAT

- 1. The Cheltenham Safeguarding Forum consider the task group report at its meeting on 26 April 2013 to discuss how it might support the recommendations.**
- 2. Similarly the task group report be considered by the Positive Lives Partnership at their meeting on 23 May 2013.**
- 3. The Designated Safeguarding Officer collate the responses and bring a report back to Cabinet.**
- 4. The Chief Executive forward the scrutiny task group report to the Gloucestershire's Police and Crime Commissioner and the Police and Crime Panel inviting any comments.**

7. REPORT OF THE UBICO SCRUTINY TASK GROUP

The Chair of the UBICO scrutiny task group, Councillor Chard, introduced the report. The group had looked into 2 issues-the relationship between the Council and Ubico and the interruptions caused by the snow. Two issues were of particular concern to the group, namely the decision not to nominate any borough councillors to the Board and communication with the general public, an issue which came to the fore during the snow interruption.

The Cabinet Member Sustainability thanked the scrutiny task group for its in-depth work. He outlined his response to the recommendations which were laid down in his response in the reports pack. He explained that the decision regarding the nomination of councillors to the Board of Ubico was not within the Cabinet remit. However, he recognised this issue and would discuss this with shareholders of Ubico. With regard to the communication issue and the interface between the call centre team and Ubico team he explained that a systems thinking review was being undertaken and this should be completed before any consideration of the arrangements. He also explained that the review of bring site facilities should be completed by September. The Cabinet

member working group was also examining the issue of extending the group of products which could be accepted.

Whilst broadly accepting the remaining recommendations he proposed that the working group recommendations be approved subject to his explanations laid down in his response.

In terms of the service disruption the Cabinet Member explained that the issues had been well documented and it had been acknowledged by the director of commissioning and the managing director of Ubico and himself that lessons should be learnt. He outlined the issues raised in his briefing note attached to the agenda reports pack. What was most important for the future was that the council had robust continuity plans in place and communications to the public are clear. It was hoped that more resilience would be built into the system with the Joint Waste Committee which was formed on 1 April.

The Leader of the Council reaffirmed that the issue of board membership would be raised with shareholders and it was hoped that Tewkesbury Borough Council would join Ubico in the not too distant future. He explained that Cotswold DC was of the view that being a full member of the Board would restrict what the member could do but the issue should be explored further.

RESOLVED THAT

the recommendations of the scrutiny task group report (as set out at item 8 of Appendix 1 of this report) be approved subject to the Cabinet member's response as laid down in the accompanying documentation.

8. REVIEW OF GLOUCESTERSHIRE HOMESEEKERS ALLOCATIONS POLICY

The Cabinet Member Housing and Safety introduced the report and outlined the changes to the scheme in light of Welfare Reform and the increased flexibilities arising from the Localism Act. These concerned aligning the Allocations Scheme's bedroom entitlement criteria with the new Housing Benefit bedroom entitlement criteria for social housing tenants and to award additional preference and local connection to ex-members of the Armed Forces and their family members. Section 2.3 of the report and the Banding Matrix in Appendix 2 detailed additional changes which the council now wished to implement.

He highlighted that the impact of the scheme would be monitored by the Housing and Support Forum and the Access and Inclusion Group with operational issues being fed into the Gloucestershire Homeseeker's Operational Group; and strategic issues considered by the Gloucestershire Homeseeker's Management Board. It was important that this should be kept under review and this was proposed as an amendment to the resolution laid down in the report.

RESOLVED THAT

the proposed changes to Gloucestershire Homeseeker's Allocations Policy be approved and to keep the situation under review.

9. 3RD SECTOR REQUEST FOR RETAIL PREMISES AT 39 GROSVENOR STREET

The Cabinet Member Finance introduced the report and explained that the Council had received a request from Cheltenham Open Door that consideration be given to agreeing a rent subsidy for its project at 39 Grosvenor Street. The project satisfied 3 of the Council's key objectives and the 3rd sector panel recommended that a rent reduction of 80% be granted. Open Door was, in the Cabinet Member's view, an excellent charity which focussed on housing needs and other associated problems and relied greatly on volunteers and voluntary funding. The Cabinet Member suggested that due the contribution of Open Door to those in housing need Cheltenham Borough Homes should be approached to cover the discretionary element recommended by the Assessment Panel.

Members agreed that Open Door undertook excellent and valuable work which was vital in the light of welfare reform changes. They welcomed the suggestion to approach CBH for the discretionary element. The Leader of the Council added that CBH had adopted Open Door as charity of the year.

In the light of the discussion above the recommendations were amended to include the request to CBH to provide the discretionary element.

RESOLVED THAT

- 1. The recommendation of the 3rd Sector Panel be accepted and that the Director of Resources be authorised to administer a rent reduction of 80% against the new rent of £7,500pa associated with a new lease to be granted to Cheltenham Open Door by Cheltenham Borough Council.**
- 2. Cheltenham Borough Homes be requested to fund a further discretionary allowance of 20% upon the rent as recommended by the Assessment Panel.**

10. REQUEST FOR LEASEHOLD DISPOSAL OF OPEN SPACE AT COX'S MEADOW, OLD BATH ROAD.

The Cabinet Member Finance introduced the report and explained that the property had been declared surplus after the 2011 budget. As the property was on the edge of a public space the Asset Management Working Group agreed that the premises should be marketed for leasehold disposal for a variety of uses but excluding any form of residential or take-away use. This would give the council a degree of control of the use of the building in the future. The applicant intended to convert the building into a retail premises with a proposed use as a Florist or other retail opportunity. Due to the continuing maintenance liability of the building the only other option for the Council would be to have the building demolished.

The Leader added that the premise was not available as part of the park and advertising the leasehold disposal of Open Space was a statutory obligation and a technicality.

RESOLVED THAT

- 1. The parcel of open space land outlined in red on the attached plan (attached as Appendix A) being the former public convenience building at Cox's Meadow, Old Bath Road,**

Cheltenham be declared surplus and to authorise the placing of a Public Notice pursuant of Section 123(2A) of the Local Government Act 1972 in respect of the leasehold disposal of the said parcel of open space land

- 2. That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a final decision concerning disposal of the land.**
- 3. That should no objections or representations be received in response to the advertisement, that Cabinet declare the land surplus and the matter is delegated to the Head of Property and Asset Management to finalise and complete an appropriate lease.**

11. COMPULSORY PURCHASE RESOLUTION - 8 GOLDEN MILLER ROAD

The Cabinet Member Housing and Safety introduced the report and explained that since 8 Golden Miller Road, a privately owned property, had become vacant in 2003 the property had deteriorated and complaints had been received by the council. All negotiations to improve the property and bring it back into residential use had failed and negotiations to purchase the property had also failed. Whilst compulsory purchase was seen as a last resort it must now be considered as a means to bring the property back into residential use and allow renovation to improve its appearance and prevent further loss of amenity to the area.

Members agreed that compulsory purchase was an important signal that the council would not tolerate properties which were in a state of disrepair and that due to the chronic shortage of housing in the town the council would not accept long term empty properties.

RESOLVED THAT:

- 1. the making of a Compulsory Purchase Order ('the Order') under section 226 (1)(a) of the Town and Country Planning Act 1990 to acquire 8 Golden Miller Road, Cheltenham, as shown edged red on the attached plan (Appendix 2) (the Order Land) be authorised.**
- 2. the Enforcement Manager be authorised to make any necessary minor or technical amendments to the boundaries of the Order Land.**
- 3. the Borough Solicitor be authorised to seal the Order and to take all necessary steps, including the publication of all statutory notices and defend the Council at Public Inquiry if necessary, to secure confirmation of the Order and the vesting of the Order land in the Council.**
- 4. the Enforcement Manager be authorised to continue to negotiate with the owners of interests in the Order Land to secure a purchase of the Order Land prior to confirmation of the Order**

5. **In the event that the Secretary of State notifies the Council that it has been given power to confirm the Order, authorise the Borough Solicitor to confirm the Order.**

12. QUARTERLY BUDGET MONITORING REPORT (AS AT END OF FEBRUARY 2013)

The Cabinet Member Finance introduced the report and explained that the projected total budget saving amounted to £212 100. This had been achieved through the hard work of officers and success in terms of above target income for the Town Hall, income from investments and the provision of project management services to other councils.

He explained that Cabinet was being asked to approve the write off of irrecoverable business rates debts totalling £68 587.90. These debts related to companies which have ceased trading and there are no available enforcement procedures available.

The Cabinet Member Finance explained that Cabinet and Council would have to decide in June 2013, when outturn was finalised, how to apply the budget saving bearing in mind the need to keep the level of reserves robust and the uncertainty surrounding possible future budget funding gaps. Cabinet would be seeking Council approval to set aside part of the underspend to create a provision to fund the safety net threshold for any additional expenditure relating to the new business rate retention scheme.

Tribute was paid to the sound financial management of the council and the hard work of officers.

The Leader of the Council said that this was a positive report. He referred to the discretionary rate relief scheme whereby £100k had been provided by central Government to facilitate high street revitalisation. Take up of the scheme had been low so officers were looking at ways to attract more claims in the future.

RESOLVED THAT

1. **the contents of this report including the key projected variances to the revised 2012/13 budget and the projected total budget saving of £212,100 be noted.**
2. **in principle, recommend to Council, as part of the 2012/13 outturn report to Council on 24th June 2013, that this projected budget saving be used to create a provision to fund any additional expenditure relating to the new business rates retention scheme and any possible future fluctuations on business rates (paragraph 4.2).**
3. **the write off of irrecoverable business rate debts totalling £68,587.90 (paragraph 4.3) be approved, noting that doing so does not impact adversely on the Council (paragraph 4.4).**

13. REGULATION OF INVESTIGATORY POWERS (RIPA) -REVISED POLICY GUIDELINES

The Cabinet Member Corporate Services introduced the report which updated Cabinet on the new Regulation Investigatory Powers Act (RIPA) and codes of practice; summarised the new duties and responsibilities this legislation placed

on local authorities, officers and members and recommended amendments to the procedural guide to meet these.

He highlighted that the Council's power to undertake direct surveillance was limited to offences that have a custodial sentence of 6 months. These concerned criminal offences punishable by a term of at least six months imprisonment or criminal offences relating to the under-age sale of alcohol or tobacco. He stated that local authorities were now required to obtain judicial approval from the Magistrates Court before they can use their existing RIPA powers. The central record of authorisations would be held and maintained by the Corporate Governance Risk and Compliance Officer.

In response to a question on the number of cases of suspected fraud the Cabinet reported that in the last 12 months there had been 56 cautions, 23 prosecutions and 18 administrative penalties.

Members welcomed the changes and said that the requirement to obtain judicial approval from the Magistrates Court would provide the public with reassurance.

RESOLVED THAT

- 1. the changes to the RIPA process made by the Protection of Freedoms Act 2012 be welcomed;**
- 2. the revised RIPA Policy Guidelines be approved; and**
- 3. the designation of the nominated Executive Director as the Council's Senior Responsible Officer for the purposes of RIPA be approved.**

14. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Sustainability referred to the briefing note included in the agenda reports pack on Council activity on adapting to climate change. All divisions were required to undertake risk assessments to identify the vulnerability of their particular services to climate change and identify actions to mitigate climate risk.

15. CABINET MEMBER DECISIONS TAKEN SINCE THE LAST MEETING OF CABINET

The Leader informed Cabinet that he had taken a decision giving shareholder approval to Ubico to enter into a contract with Gloucestershire County Council for Ubico Limited to supply Grounds Maintenance Services for a contract term of 7 years and a contract with Zurich Municipal Insurance for the provision of insurance to Ubico Limited for a contract term of 3 years at an annual premium of £198,783.

The Cabinet Member Housing and Safety reported his decision to pay £30 000 to the Cheltenham, Cirencester and Tewkesbury District Citizens' Advice Bureau.

The Cabinet Member Finance informed members that he had made a number of decisions relating to the disposal of Housing Revenue Account properties,

the capital receipt of which would be reinvested in the provision of affordable housing. He also referred to a decision taken relating to the disposal of the freehold interest in the land at Bennington street, accepting the tender for the provision of garage renovations for council owned residential properties and the decision in the framework of the St Paul's Phase 2 redevelopment concerning the construction of a new dwelling and the disposal of 2 properties.

Chairman

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Cheltenham Borough Council

Cabinet – 21 May 2013

Proposal to Adopt a Late Night Levy

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Executive Director - Grahame Lewis
Ward(s) affected	All
Key Decision	Yes
Executive summary	<p>Part 2 of the Police Reform and Social Responsibility Act 2011 introduced a new discretionary power for Licensing Authorities to introduce a late night levy.</p> <p>The levy can be charged to persons who are licensed to sell alcohol between midnight and 6am as a means of raising a contribution towards the costs of policing the late-night economy.</p> <p>This report examines the possibility of making a proposal to introduce a levy in Cheltenham, the process & consequences of doing so and explains the options available to the Council to design the levy.</p>
Recommendations	<p>Cabinet is recommended to;</p> <ol style="list-style-type: none"> 1. Make a proposal to adopt a Late Night Levy in Cheltenham; 2. Resolve that the Council should consult on proposals for the introduction of a levy; 3. Approve the draft consultation document attached at Appendix 2; 4. Delegate authority to the Executive Director to undertake the necessary consultation; and 5. Note the arrangements for the operation of a late night levy with a target date for implementation of 1 April 2014.
Financial implications	<p>The Council will be able to retain up to 30% of the net levy income received. This will be used to fund services provided to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy, as outlined in paragraph 1.10 to this report.</p> <p>Contact officer: Sarah Didcote</p> <p>sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>

<p>Legal implications</p>	<p>As set out in the report.</p> <p>Contact officer: Sarah Farooqi</p> <p>sarah.farooqi@tewkesbury.gov.uk, 01684 272693</p>
<p>HR implications (including learning and organisational development)</p>	<p>No direct HR implication in this report. However there is the potential of additional work for those in the licensing team with regards to processing applications from licence holders wishing to be exempt from the levy.</p> <p>Contact officer: Donna Sheffield</p> <p>donna.sheffield@cheltenham.gov.uk, 01242 77 4972</p>
<p>Key risks</p>	<p>As Identified in Appendix 1</p>
<p>Corporate and community plan Implications</p>	<p>Enhancing and protecting our environment</p> <p>We attract more visitors and investors to Cheltenham</p> <p>Communities feel safe and are safe</p>

1. Background

- 1.1 Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. The town offers a rich choice of entertainment and facilities making it a destination attracting usually high numbers of visitors some travelling considerable distances to enjoy what the late night economy has to offer.
- 1.2 The town also hosts a number of internationally renowned festivals throughout the year including one of the biggest race festivals in the UK, the 'National Hunt Festival', attracting hundreds of thousands of visitors to the town, at times, many of whom also enjoy the vibrant night time economy.
- 1.3 Although the vast majority of people visiting the town do so safely and responsibly, an active night-time economy nonetheless demands additional resource and cost for the council, police and other partners to deal with associated crime, disorder and other anti-social behaviour.
- 1.4 Part 2 of the Police Reform and Social Responsibility Act 2011 ("2011 Act" hereafter) introduced a new discretionary power for Licensing Authorities to introduce a late night levy ("the levy" hereafter) to apply in their districts.
- 1.5 The new discretionary power, if adopted by the Council, enables the Council to charge a levy to persons who are licensed to sell alcohol late at night, as a means of raising a contribution towards the costs of policing the late-night economy. It is important to note that the rationale is not to restrict the extent of the late night economy but to ensure a contribution towards the consequential costs.

2. Introduction of the Levy Statutory Criteria

- 2.1 The Council must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These are 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.
- 2.2 Prior to making a proposal to adopt the levy, the Council should discuss the need for a levy with the relevant PCC and the relevant Chief Officer of Police. The Council has had discussions with the relevant PCC and relevant Chief Officer of Police and both have indicated their support of the introduction of a late night levy.
- 2.3 If the Council resolves to make a proposal to adopt the levy, it must consult on its proposal with residents, the PCC, the Chief Constable and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the late night supply period.
- 2.4 It is not prescribed how long the Council should consult on its proposal for. The Home Office guidance states that the consultation "...is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal." (para. 1.12)
- 2.5 Since the regulations do not prescribe how long the Council should consult, it is recommended that a 12 week consultation be undertaken in accordance with the HM Government's Code of Practice on Consultation.
- 2.6 At the conclusion of the consultation, Cabinet will assess the consultation responses. The final decision to introduce the levy and if so its design will be made by the Licensing Authority i.e. Full Council.

3. Implementation of the Levy

- 3.1 Following a decision to adopt the levy, the Council must notify the PCC, Chief Constable, neighbouring authorities and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period.
- 3.2 The notice must specify the start date for the levy, the late night supply period, any exemptions

and reductions, and how the revenue will be shared between the police force and licensing authority.

- 3.3** Holders of a licence or certificate that will be affected by the decision to adopt the levy must be given the opportunity to apply for a free variation of their licence to exclude themselves from the late night supply period. The cost of processing free variations will be a deductible expense from the levy receipts in year zero which is the first year in which the levy is introduced.
- 3.4** The guidance suggests that the Council sets the start date of the levy no less than three months after the notifications have been sent to permit adequate time for licence holders to apply for a variation of their licences. (para. 1.15)

4. Characteristics of the Levy

- 4.1** Subject to exemptions that may be applied, the levy must have effect in the whole borough.
- 4.2** The levy will be payable by the holders of a premises licence or club premises certificate which authorise the sale or supply of alcohol on any days during a period (the "late night supply period") beginning on or after midnight and ending at or before 6am regardless of whether the premises are actually operating during the period.
- 4.3** The late night supply period can be for any length between midnight and 6am but must be the same every day. The Council can decide that it would be appropriate that certain types of premises should not pay the levy and can set the late night supply period to suit the opening times of premises in their local area.
- 4.4** The levy will not apply to Temporary Event Notices that authorise the sale of alcohol during the late night supply period.

5. Permitted Exemptions & Reductions

- 5.1** The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 prescribe a number of permitted exemption categories from the levy. These exemption categories are discretionary and the Council can decide which, if any, should apply.
- 5.2** These exemption categories are:
- 5.2.1 Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- 5.2.2 Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises.
- 5.2.3 Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- 5.2.4 Community Amateur Sports Clubs:** Premises in this category must have relief from business rates (Section 658 of the Corporation Tax Act 2010).
- 5.2.5 Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor ("DPS") requirement and demonstrated that they operate responsibly.
- 5.2.6 Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000.
- 5.2.7 New Year's Eve:** Premises which have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

5.2.8 Business Improvement Districts (“BIDs”): Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus.

5.3 The Council may decide to use the levy to promote and support participation by premises in business-led best practice schemes by deciding to apply a 30% reduction for premises that participate in such schemes. The 30% reduction is a flat rate and there are no cumulative discounts applicable, for example, where a premises participates in more than one best practice scheme.

5.4 Qualifying best practice schemes are schemes that have:

5.4.1 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,

5.4.2 a requirement for active participation in the scheme by members, and

5.4.3 a mechanism to identify and remove in a timely manner those members who do not participate appropriately.

5.5 The Council has the discretion to determine how best practice schemes can demonstrate that they meet these benchmarks.

6. The Levy Charge and Collection

6.1 The amount of the levy is prescribed nationally and based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises rateable value. The annual charges for the levy will be:

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

6.2 Any payment of the levy which is owed can be recovered as a debt due to the Council. Non-payment of the levy will result in suspension of a premises licence or suspension of club premises certificate.

Levy Revenue

6.3 Section 131(4) of the 2011 Act stipulates that the Council must pay at least 70% of the net income of the levy to Police and Crime Commissioner (“PCC” hereafter). The Council will be able to retain up to 30% of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. These activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- a) the reduction or prevention of crime and disorder;
- b) the promotion of public safety;
- c) the reduction or prevention of public nuisance; and/or
- d) the cleaning of any relevant highway or relevant land in its area.

6.4 Whilst the regulations and guidance prescribe what the Council must spend its portion of the levy on, it does not place similar spending restrictions on PCC other than to say they should “...be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.”

- 6.5 The Council can deduct the costs it incurs in connection with the introduction (or variation), administration, collection and enforcement of the levy, prior to the levy revenue being apportioned. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 describe relevant expenses as expenses incurred by the Council in connection to:
- a) the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day,
 - b) the collection of payments of the late night levy,
 - c) the enforcement of the late night levy requirement,
 - d) its application of the net amount of levy payments in accordance with section 131(2) of the Act, (the cost of processing applications for a variation in relation to the introduction of the levy)
 - e) its publication of a statement in accordance with section 130(5) of the Act.
- 6.6 The Council is required to publish on its website an estimate of the costs it will deduct from the levy revenue each year.

7. The Local Picture & Impact

- 7.1 The proposal at this stage is for Cabinet to give approval to start the process to introduce the levy, to gather additional information as to the likely costs and consequences, to consult widely on the proposals so that full Council can be fully informed and able to make a final decision.
- 7.2 The Council has set out in its Corporate Strategy a priority to strengthen communities through making communities feel safe and ensuring they are safe. The same priority sets out measures to promote partnership working with Gloucestershire Constabulary and the PCC. The adoption of a levy in Cheltenham will contribute to the promotion of this priority for the benefit of the borough.
- 7.3 The Council is required to consider the desirability of introducing the levy in relation to the matters relating to the costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol during the specified late night supply period.
- 7.4 It is a well established fact that Monday, Friday and Saturday nights place the greatest resource demands on policing the late night economy. Details obtained from Cheltenham South LPA estimate that the costs associated with policing these three nights are £47,000 for a Monday, £58,000 for a Friday and £73,000 for a Saturday. In addition to these three nights, additional police resources are also required for "hotspot nights" e.g. Bank holidays, fresher week, exam result night etc. The cost of policing "hotspot nights" is estimated to be in the region of £326,000 per annum.
- 7.5 Initial views have been sought from the PCC and Chief Constable and both have responded in support of the levy being introduced in Cheltenham. Additional comments from both are outlined and reflected in the proposed levy design for Cheltenham.
- 7.6 Another consideration with regard to the impact of introducing the levy in Cheltenham is the additional cost that will be placed on local businesses. In Cheltenham, assuming the levy will apply from 00:01 to 6am, 135 premises will become subject to the levy broken down below.

Fee Band	# of premises	Levy	Gross Revenue
A	4	£299	£1,196.00
B	80	£768	£61,440.00
C	25	£1259	£31,475.00
D	9	£1365	£12,285.00
E	17	£1493	£25,381.00
		Total (Gross)	£131,777.00

- 7.7 Members are to note that the gross figure quoted above is based on the assumption that the levy will apply from 00:01 to 6am and does not take into account any exemptions, reductions or the

numbers of premises that may apply for a free variation of their licence so it is likely that the total quoted above will be lower. The cost of collecting the levy is currently the subject of detailed consideration. Furthermore, the outcome of the formal consultation will help to inform consideration of the impact. The regular monitoring and review process will also assess the impact.

- 7.8 The levy for the majority of the premises (Band B) equates to £2 a day.
- 7.9 There are currently 43 licensed premises taking part in the Night Safe scheme of which 39 would, on paper, qualify for the 30% reduction. The combined reduction for the 39 premises would total £12,019.
- 7.10 The members of the local Night Safe scheme have been fully engaged on the progress of the levy and there is, largely, support for the levy to be introduced in the borough.

8. Proposed Design for Cheltenham

- 8.1 The proposed design for a levy is set out below. The proposed design is of course subject to the outcome of the formal consultation process.

Proposed late night supply period

- 8.2 It is proposed that the late night supply period be 00:01 to 06:00.
- 8.3 The PCC and Chief Constable have initially commented that the supply period should be midnight to 06:00. There are 97 alcohol licensed premises whose terminal hour is midnight. If the late night supply period is set to start from 00:00 these premises will technically be subject to the levy for the one minute between 00:00 to 00:01. It is considered unreasonable to include these premises particularly because they are all likely to apply for a free variation which will place undue costs on the levy because the Council will be able to recover the costs it incurred from free applications from the gross income.

Proposed exemption categories

- 8.4 It is not proposed that any exemption categories be applied.
- 8.5 All late night alcohol licensed premises do contribute, to some extent, to the cost of policing the late night economy. Further rationale for not applying any exemptions is that this approach creates a level playing field for all affected premises and keeps administrative burdens and costs to a minimum.

Proposed reduction categories

- 8.6 In Cheltenham, the two qualifying schemes that would be eligible for a reduction would be the Night Safe scheme and Best Bar None.
- 8.7 The Council can decide to adjust or remove certain categories of exemption and/or reductions but it will have to follow the same procedure for consultation as it did when initially introducing the levy.
- 8.8 It is proposed that premises actively participating in the local Night Safe and Best Bar None schemes be eligible for the prescribed 30% reduction.
- 8.9 There is also a reduction category for premises in receipt of small business rate relief but it is not proposed that the reduction be applied to these premises. Some of the aforementioned premises are already members of the local Night Safe scheme and will therefore already be eligible for the reduction. Furthermore, the Council is eager to encourage premises to actively participate in schemes such as Night Safe and Best Bar None that actively work to reduce crime and disorder in the late night economy.

Revenue Split

- 8.11 In order to use the levy in the most efficient and cost effective manner, it is proposed that rather

than see the levy revenue split between two separate programmes, it is our intention to reach agreement with the Police and Crime Commissioner to develop a single programme delivered in partnership between the Council and the Police in line with guidance.

9. Policy Considerations

- 9.1 The Council’s Licensing Act 2003 Policy Statement sets out an intention to discharge its licensing responsibilities by linking to and supporting Government and other Council strategies. In addition to specific strategies, the policy also sets out the Council’s intention to continue to develop appropriate partnership arrangements in meeting the licensing objectives – these being the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 9.2 The adoption of a levy in Cheltenham will promote the approach set out in the Council’s licensing policy as it will develop an appropriate partnership arrangement to promote the licensing objectives.

10. How will success be measured?

- 10.1 If adopted, a levy will apply indefinitely until the Council decide that it will cease to apply. The guidance suggests that the Council should review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year.
- 10.2 The intention of the levy is to raise funds to contribute towards the costs of policing the late-night economy. Success will therefore be shown if the net income produced by the levy results in a sum that enables the Council and Police to develop and support initiatives which will improve the late night experience for residents and visitors in Cheltenham.
- 10.3 The Council’s Policy Statement seeks to promote a diverse cultural and entertainment value that attracts people of all ages to Cheltenham. Adoption of a levy will assist in further reducing crime, disorder and anti-social behaviour linked to the late night economy. This will promote confidence in Cheltenham as a safe place to live and visit. This will be measured by crime, anti-social behaviour and confidence statistics.

11. Proposed Timetable For Implementation

21 May 2013	Cabinet Report, Design of the Levy & Design of Consultation
3 June 2013	Statutory Consultation starts
26 August 2013	End of Statutory Consultation, Consideration of Outcome of Consultation and Finalisation of Proposals [Further Consultation, if necessary]
October 2013	Report to Cabinet
November 2013	Report to full Council
December 2013	Notification of Decision
January 2014	Determination of Minor Amendments to Vary Hours
1 April 2014	Implementation and Start First Levy Year
April 2015 and ongoing	Review

12. Alternative Options Considered

- 12.1 If Cabinet resolves not to make a proposal to adopt the levy in Cheltenham that in effect would be

the end of the process subject to the normal call-in and motion in Council procedures.

Report author	<p>Contact officer: Louis Krog</p> <p>Licensing & Business Support Team Leader</p> <p>louis.krog@cheltenham.gov.uk, 01242 77 5004</p>
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Consultation Document 3. Amended Late Night Levy Guidance (December 2012)
Background information	<ol style="list-style-type: none"> 1. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 2. The Late Night Levy (Application and Administration) Regulations 2012 3. Chapter 2, Part 2 of the Police Reform and Social Responsibility Act 2011 4. Licensing Act 2003 Licensing Policy Statement - Approved by Council, 10th of February 2012 5. HM Government's Code of Practice on Consultation

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	The implementation of the levy could have an economic impact if prospective investors are reluctant to invest in the town or existing premises opting to close earlier to avoid paying the levy.		20/5/13	2	3	6					

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close



CHELTENHAM
BOROUGH COUNCIL

Consultation Document - Late Night Levy

Background

Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. The town offers a rich choice of entertainment and facilities making it a destination attracting usually high numbers of visitors, some travelling considerable distances to enjoy what the late night economy has to offer.

The town also hosts a number of internationally renowned festivals throughout the year including one of the biggest horse racing festivals in the UK, the 'National Hunt Festival', attracting hundreds of thousands of visitors to the town at times, many of whom also enjoy the vibrant night time economy.

Although the vast majority of people visiting the town do so safely and responsibly, an active night-time economy nonetheless demands additional resource and cost for the council, police and other partners to deal with associated crime, disorder and other anti-social behaviour.

The Council has set out in its Corporate Strategy a priority to strengthen communities through making communities feel safe and ensuring they are safe. The same priority sets out measures to promote partnership working with Gloucestershire Constabulary and the Police Crime Commissioner.

To this end, in order to help fund the policing of the night-time economy in Cheltenham, the Council has made a proposal to adopt a Late Night Levy ("levy") in the borough.

For the avoidance of doubt, at the current time the Council's Cabinet has only decided to consult on the proposals. A final decision will be made later taking into account all the views that have been given.

This consultation is seeking views on the Council's proposal to adopt a levy.

What is the Late Night Levy?

The levy is a discretionary power the Council has to impose a levy on premises licensed to sell alcohol anytime between midnight and 6am.

There is a requirement that 70% of the net income from the levy be apportioned to Gloucestershire Police and Crime Commissioner whilst the Council can retain up to 30% of the net income to spend on measures to reduce or prevent crime and disorder, promote public safety, reduce or prevent public nuisance, and/or the cleaning of streets.

The Council has the discretion to exempt certain premises or reduce levy for certain premises. These are:

Permitted Exemptions

- **Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- **Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises.

- **Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- **Community Amateur Sports Clubs:** Premises in this category must have relief from business rates (Section 658 of the Corporation Tax Act 2010).
- **Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
- **Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000.
- **New Year’s Eve:** Premises which have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.
- **Business Improvement Districts (“BIDs”):** Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus.

Reductions Categories

The Council may decide to use the levy to promote and support participation by premises in business-led best practice schemes by deciding to apply a 30% reduction for premises that participate in such schemes. The 30% reduction is a flat rate and there are no cumulative discounts applicable, for example, where a premises participates in more than one best practice scheme.

Qualifying best practice schemes are schemes that have:

- 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.

The amount of the LNL is fixed by law and depends on the rateable value and use of the premises.

Rateable Value Bands (based on the existing fee bands)	Levy Cost
A. No rateable value to £4,300	£299
B. £4,301 to £33,000	£768
C. £33,001 to £87,000	£1,259
D. £87,001 to £125,000	£1,365
E. £125,001 and above	£1,493

Where premises within Bands D or E primarily or exclusively sell alcohol for consumption on the premises, a multiplier is applied to ensure that larger clubs and bars make a higher contribution:

D. x2 £87,001 to £125,000	£2,730
E. x3 £125,001 and above	£4,440

Premises with no rateable value fall within Band A

Premises that are in the course of construction fall within Band C.

The Council’s Proposal

- The Council has proposed that premises that are licensed to sell alcohol for all or part of the period between **00:01 and 06:00** should have to pay the levy.

- Page 25
- The Council is **not proposing to exempt any premises** from paying the levy because we consider that all late night licensed premises to some extent, whether directly or indirectly, contribute towards the need to police the late night economy.
 - The Council is however proposing to **apply a 30% reduction for premises that participate in the local Nightsafe scheme or those that have obtained Best Bar None accreditation.**
 - In order to use the levy revenue in the most efficient and cost effective manner, the Council is proposing that rather than see the levy revenue split between two separate programmes, **it is our intention to reach agreement with the Police and Crime Commissioner to develop a single programme delivered in partnership between the Council and the Police in line with guidance.**

Who are we going to consult?

The Council must consult with:

- the Gloucestershire Police and Crime Commissioner;
- the Gloucestershire Constabulary's Chief Constable; and
- holders of premises licences and club registration certificates who will be affected by the LNL.

In addition, the Council will also consult with:

- The Public via the Council's website, a notification in the local press and information displayed in the Municipal Offices
- Cheltenham Borough Council Elected Councillors
- Parish Councils
- Responsible Authorities

How to respond

At the bottom of this consultation document is a form we would like consultees to complete.

You can return the completed form:

By post:

Louis Krog
Licensing & Business Support Team Leader
Cheltenham Borough Council, Municipal Offices
Promenade
Cheltenham
GL50 9SA

Email:

licensing@cheltenham.gov.uk quoting "Late Night Levy Consultation" in the subject field.

Fax:

01242 77 4924

In person:

Louis Krog at the Municipal Offices on the Promenade, Cheltenham

If you do not support the implementation of a late night levy please can you still consider all the questions below as your response will be an important part of the decision making process.

The implementation of a levy is not a forgone conclusion. The decision to implement the levy will be made following this consultation.

Closing Date: 26 August 2013

Question 1 – Are you in support of the Late Night Levy being introduced in Cheltenham?

Yes No Please give reasons below.

Question 2 – Do you agree that the late night supply period should be set between 00:01 and 06:00?

Yes No Please give reasons below.

The late night supply period is the period between 12am and 6am during which premises are licensed to sell alcohol and must be the same every day.

Question 3 – The Council has proposed not to exempt any premises from liability to pay the levy. Do you agree that the Council should not exempt any premises?

Yes No

If no, please indicate below which premises you think should be exempt and why.

- Premises with overnight accommodation

Yes No Please give reasons below.

This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.

- Theatres and cinemas

Yes No Please give reasons below.

Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises.

- Bingo halls

Yes No Please give reasons below.

Premises in this category must be licensed and regulated under the Gambling Act 2005.

- Community premises

Yes No Please give reasons below.

Premises must have successfully applied for the removal of the mandatory designated premises supervisor ("DPS") requirement and demonstrated that they operate responsibly.

- New Year's Eve

Yes No Please give reasons below.

Premises which have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

Question 4 - It is proposed that premises actively participating in the local Nightsafe and Best Bar None schemes be eligible for the prescribed 30% reduction. Do you agree that the two previously mentioned schemes should be eligible for a reduction in the levy?

Yes No Please give reasons below.

Question 5 – It is not proposed that premises in receipt of small business rate relief be eligible for a reduction of the levy. Do you agree with this?

Yes No Please give reasons below.

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Question 6 - Are there any other qualifying registered best practice schemes that should be in receipt of the 30% reduction?

Qualifying best practice schemes are schemes that have:

- 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.

Question 7 – It is proposed that in order to use the levy in the most efficient and cost effective manner, rather than see the levy revenue split between two separate programmes, that agreement be reached with the Police and Crime Commissioner to develop a single programme delivered in partnership between the Council and the Police in line with guidance.

Do you support developing a single programme delivered in partnership between the Council and the police?

Yes No If "No" please answer question 8.

Question 8 – Do you agree that the net income from the levy should be split 30:70 between Cheltenham Borough Council and the Gloucestershire Police and Crime Commissioner?

Yes No If "No" please answer question 9.

Question 9 – Do you think the Gloucestershire Police and Crime Commissioner should receive a larger (than 70%) proportion of the net revenue?

Yes No Please give reasons below.

Please note that the minimum amount that must be apportioned to the Gloucestershire Police and Crime Commissioner must be at least 70% of the net income.

Question 10 – The Council is proposing to develop a range of activities on which to spend its portion of the levy income which will be provided to tackle alcohol related crime and disorder during the late night supply period (see Question 2) including:

- **Funding for taxi marshals**
- **CCTV improvements**
- **Funding to support, promote and expand the work of Nightsafe, Best Bar None, Street Pastors etc.**
- **Joint Police and Council enforcement initiatives**
- **Funding to support the Reducing Alcohol Related Violent Crime and Disorder initiative**

Do you have any comments on the above range of activities which the Council would wish to develop using its portion of the levy revenue?

Yes

No

Please give reasons below.

***Nightsafe** (as part of Cheltenham Safe) is the retail crime reduction partnership for the night-time economy of Cheltenham. It is a non profit making partnership that works with the Council and Police encouraging its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the Council, the police and other responsible authorities.*

***Best Bar None** is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises.*

Question 11 – Do you have any suggestions on how the Council could spend its portion of the levy?

Please provide further explanation below.

Please note that the Council can only spend its portion on arrangements for:

- (a) the reduction or prevention of crime and disorder;*
- (b) the promotion of public safety;*
- (c) the reduction or prevention of public nuisance; and/or*
- (d) the cleaning of any relevant highway or relevant land in its area.*

Question 12 – Do you agree that the Council should seek to implement the levy on the 1st of April 2014?

Yes

No

Please give reasons below.

Question 13 – Do you have any other comments to make regarding them proposed levy?

Full Name

Your Address

Telephone Number

Email Address

In what capacity are you responding to this consultation?

- A Licence Holder
- Cheltenham Borough Council Councillor
- Parish Council
- A Resident
- A Representative of a Licence Holder
- Other, please specify:

CONFIDENTIALITY

The Council cannot guarantee that any information that you pass to us can be treated as confidential. The Council is subject to a number of regimes that affect disclosure, including the Local Government (Access to Information) Act 1985, the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

In particular, your response could be included as an appendix to any follow up reports and/or likely to be classed as a background paper and open to public inspection.

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AMENDED GUIDANCE Page 33 ON THE LATE NIGHT LEVY

December 2012



Home Office



GUIDANCE ON THE LATE NIGHT LEVY

- 1.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 1.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.
- 1.3 A licensing authority is the authority which carries out licensing functions under the Licensing Act 2003 (“the 2003 Act”). The main licensing authorities, as defined in the 2003 Act, are:
 - the council of a district in England;
 - the council of a county in England in which there are no district councils;
 - the council of a county or county borough in Wales;
 - the council of a London borough.
- 1.4 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by the full council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

INTRODUCTION OF THE LEVY

- 1.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.¹ Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.
- 1.6 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 1.7 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities as set out in paragraph 1.42.

1 In this guidance, a reference to a PCC include a reference to the holder of the Mayor’s Office for Policing and Crime. Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) take place on 15th November 2012. Once appointed, PCCs will be expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

- 1.8 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 1.9 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).
- 1.10 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are 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.
- 1.11 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.
- 1.12 The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.
- 1.13 The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve.
- 1.14 If the full council approves the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities. It would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office.

IMPLEMENTATION OF THE LEVY

- 1.15 The licensing authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period (“relevant late night authorisation”) of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police force and licensing authority. Holders of relevant late-night authorisations should also be notified of the date before which any applications for a minor variation must be made to the authority, as set out in paragraph 1.16. We recommend that licensing authorities set the start date of the levy no less than three months after those notifications have been sent.
- 1.16 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. It is recommended that licensing authorities may wish to allow holders no less than two months to make such applications. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.
- 1.17 The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year. The licensing authority will determine the manner in which any statement is published.
- 1.18 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year. Licensing authorities may wish to notify holders of a relevant late night authorisation of any such decision.

DESIGN OF THE LEVY

- 1.19 The levy must apply to the whole of the licensing authority’s area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority’s area. Any such holder will be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.
- 1.20 As set out in paragraph 1.9, the late night supply period must begin at or after midnight and end at or before 6am. The licensing authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late-night supply period cannot apply on different days or times.
- 1.21 The levy will apply to boats, which are licensed at the place where they are usually moored or berthed. It will also apply to mobile bars, which are required to be licensed at the place where they are parked and carry on the licensable activity.
- 1.22 The levy will not apply to Temporary Event Notices (TENs).

EXEMPTIONS FROM THE LEVY

- 1.23 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through the levy. This is a local decision – the licensing authority should make its decision based on its knowledge of the night-time economy in the area, including information gathered through the consultation process.
- 1.24 Licensing authorities are not able to choose a category of premises for an exemption from the levy, if it is not prescribed in regulations. Likewise, licensing authorities are not able to exempt specific premises from the requirement to pay the levy.
- 1.25 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.
- 1.26 **Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- 1.27 **Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses. The definition of a “cinema” or a “theatre” should be readily understood by its plain, ordinary meaning.
- 1.28 **Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- 1.29 **Community Amateur Sports Clubs (“CASCs”):** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).
- 1.30 **Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
- 1.31 **Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.
- 1.32 **New Year’s Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which are only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

1.33 **Business Improvement Districts (“BIDs”)**: Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. Licensing authorities have the discretion to determine whether the BIDs in their area are eligible.

REDUCTIONS FROM THE LEVY

1.34 Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy.

1.35 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:

- 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.

1.36 Licensing authorities have discretion as to how best practice schemes can demonstrate that they meet these benchmarks. We expect licensing authorities to use their existing partnerships with best practice schemes, and understanding of a scheme’s operation in their area, to identify eligible schemes in their areas. Licensing officials could visit representatives from best practice schemes in their area, or request written details of the scheme’s objectives, if they decide to consider this reduction category.

1.37 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief (as specified in Part III of the Local Government Finance Act 1988) and have a rateable value of £12,000 or less. This reduction is only available to holders in relation to premises that supply alcohol for consumption on the premises. The relevant billing authority may have information on which premises in the licensing authority area are in receipt of Small Business Rate Relief.

1.38 If the licensing authority decides to introduce or remove categories of exemption and/or reduction after Year zero, they will need to follow the same procedure for consultation as set out in 1.11-1.13 though the consultation should only refer to the new proposal. If a licensing authority chooses to remove categories of exemption and/or reduction after Year zero, they should consider that the opportunity for businesses to make a free variation to their licence is only available when the levy is initially introduced.

LEVY REVENUE

1.39 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.

- 1.40 There are no restrictions on what the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The PCC's proportion will be subject to the same transparency measures as those that apply in relation to other aspects of the operation of the PCC. The Police and Crime panel will be able to request any documents of the PCC in order to hold them to account in the allocation and use of their funds.²
- 1.41 We recommend that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue. We also recommend that the PCC should consider allocating the funds raised from the levy back to local commanders to allow the revenue to be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.
- 1.42 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:
- the reduction of crime and disorder;
 - the promotion of public safety;
 - the reduction or prevention of public nuisance; or
 - the cleaning of any relevant highway or relevant land in the local authority area.
- 1.43 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. As set out in paragraph 1.6, any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.
- 1.44 These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
 - the collection of levy payments;
 - the enforcement of levy payments; and
 - the cost of processing applications for a variation in relation to the introduction of the levy.
- 1.45 There will be no specific restrictions on the amount of the expenses which licensing authorities can claim in expenses, however licensing authorities will have to account for their expenses following existing procedures. The Government may specify a cap on the amount of expenses in further regulations if considered necessary.

² This excludes documents that are operationally sensitive or those that would compromise national security.

LEVY CHARGE AND COLLECTION PROCESS

1.46 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

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

1.47 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C).

1.48 The levy will be collected at the same time as the annual licence fee (except in relation to holders premises who obtain a relevant late night authorisation during a levy year). The holder will, therefore, be required to pay the levy on an annual basis. For holders whose licences exist at the time that the first levy year begins, the payment year will be the same as the levy year³. These holders will make their first levy payment when they pay their annual fee. For holders who are granted a licence in the first or subsequent levy years, the payment year runs from the date of the grant of the licence and for each year thereafter. Their first payment will be made 14 days after the grant of the licence, and thereafter when they pay their annual fee.

1.49 In the following circumstances, licensing authorities should adjust a holder's liability to the levy:

- a licence lapses under section 27 of the 2003 Act (that is if the holder of the licence dies, becomes mentally incapable, becomes insolvent, if the partnership holding the license is dissolved or if it is a club, ceases to be a recognised club);
- an EMRO is made which prohibits premises from serving alcohol at any time when the levy applies; or
- the amount of the levy reduction is the amount found by applying the formula: $R = (L/365) \times N$ (see footnote⁴).

³ The payment year is the period by reference to which a licence holder's liability to the levy is determined. The levy year is the period during which the levy applies.

⁴ R is the levy reduction, L is the amount of the late night levy payable by the holder of the relevant late night authorisation and N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.

- 1.50 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might choose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.
- 1.51 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.




Home Office