

**Cheltenham Borough Council  
Council – 16 December 2013  
Adoption of Late Night Levy**

<b>Accountable member</b>	<b>Councillor Peter Jeffries – Cabinet Member for Housing &amp; Safety</b>
<b>Accountable officer</b>	<b>Grahame Lewis – Executive Director</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<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>On the 21<sup>st</sup> of May 2013 Cabinet made a proposal to adopt the levy in Cheltenham. Following the proposal, a 12 week consultation was undertaken between June and August.</p> <p>Council is asked to consider the consultation feedback and decide if it wants to adopt the levy, and if so, determine the design of the levy.</p>
<b>Recommendations</b>	<p><b>Council is recommended to;</b></p> <ol style="list-style-type: none"> <li><b>1. Note and consider the consultation feedback.</b></li> <li><b>2. Pursuant to section 125(2) of the Police Reform and Social Responsibility Act 2011 (“2011 Act”) resolve that the late night levy is to apply in Cheltenham;</b></li> <li><b>3. Pursuant to section 132(1) of the 2011 Act:-</b> <ol style="list-style-type: none"> <li><b>a) that the 1<sup>st</sup> of April 2014 be the date on which the late night levy requirement is first to apply; and</b></li> <li><b>b) for the first levy year and, subject to section 133 of the 2011 Act, each subsequent levy year;</b> <ol style="list-style-type: none"> <li><b>i) that the late night supply period be set from 00:01 to 06:00;</b></li> <li><b>ii) that the following permitted exemption categories as defined in regulation 4 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 are to apply:-</b> <p style="margin-left: 20px;"><b>(1) regulation 4(i) – premises authorised to supply alcohol for on consumption only between midnight and 6 am on 1 January.</b></p> </li> <li><b>iii) that the following permitted exemption category as defined</b></li> </ol> </li> </ol> </li> </ol>

in regulation 4 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 is not to apply:-

(1) regulation 4(a) – hotels etc. supplying alcohol for on-consumption by resident patrons;

(2) regulation 4(b) – theatres supplying alcohol for on-consumption to ticket holders, performers, guests at private events;

(3) regulation 4(c) – cinemas supplying alcohol for on-consumption to ticket holders, guests at private events;

(4) regulation 4(d) – bingo halls where the playing of non-remote bingo is the primary activity;

(5) regulation 4(e) – registered community amateur sports clubs;

(6) regulation 4(f) – community premises like church halls and village halls, etc. that are subject to the alternative licence condition;

(7) regulation 4(g) – single country village pubs in designated rural settlements which receive rate relief; and

(8) regulation 4(h) – premises liable for the Business Improvement District levy.

iv) that the following permitted reduction category as defined in regulation 5 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 is to apply:-

(1) regulation 5(1)(a) – members of business-led best practice schemes.

v) that the following permitted reduction category as defined in regulation 5 of the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 is not to apply:-

(1) regulation 5(1)(b) – certain premises authorised to supply alcohol for on-consumption which receive small business rate relief.

vi) that the proportion of the net amount of levy payments that is to be paid to the relevant local policing body under section 131 of the 2011 Act is 70 per cent.

4. That the Deputy Chief Executive, in consultation with the Cabinet Member Housing and Safety, shall have delegated powers to do all things necessary to implement these decisions, including:-

a) power to publish notice of the decisions in accordance with regulation 9(1)(b) of the Late Night Levy (Application and Administration) Regulations 2012;

- b) power to determine whether the holders of any relevant late night authorisations fall within any permitted exemption or reduction categories;
- c) power to determine the aggregate amount of expenses of the Council that are permitted deductions under section 130(1)(b) of the 2011 Act;
- d) power to publish annual notices under section 130(5) of the 2011 Act relating to anticipated expenses and the net amount of the levy payments;
- e) power to make adjustments to payments in accordance with paragraph 7 of the Late Night Levy (Application and Administration) Regulations 2012;
- f) power to determine from time to time when and for what purposes the Council will apply the non-specified proportion of the net amount of the levy payments; and
- g) to enter into an agreement with the Police and Crime Commissioner regarding the use of the net amount of levy payments as a single programme and the establishment of a Late Night Levy Advisory Group to facilitate a single programme.

<b>Financial implications</b>	<p>As detailed in the report. The net levy income retainable by the Council will be ring fenced and used to fund future initiatives that tackle alcohol related crime and disorder within the borough of Cheltenham.</p> <p><b>Contact officer: Sarah Didcote, <a href="mailto:sarah.didcote@cheltenham.gov.uk">sarah.didcote@cheltenham.gov.uk</a>, 01242 26 4125</b></p>
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<b>Legal implications</b>	<p>On 21 May 2013 Cabinet considered made a proposal to adopt the Late Night Levy. As required by regulation there has been a 12 week consultation period. On 1 October 2013 regulations were brought into force that amended the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to specify that the functions relating to the introduction of the Late Night Levy are not to be the responsibility of a Local Authority's Executive. The decision regarding whether or not the Late Night Levy should be introduced is a matter for Council to determine.</p> <p>The Council is not required under law to adopt the Late Night Levy. Members are required to consider all of the responses that have been received both for and against the introduction of the Late Night Levy.</p> <p>If Council decides to adopt the Late Night Levy it will need to be satisfied, in order to withstand any potential judicial challenge, there is sufficient evidence to justify the introduction of the Late Night Levy.</p> <p>If Council decides to adopt the Late Night Levy consideration will need to be given to the form it should take when it is introduced. There will need to be sufficient evidence to justify the imposition of the Late Night Levy on different types of premises where there is discretion as to whether or not to impose the Late Night Levy on those premises.</p> <p>If Council decides not to adopt the Late Night Levy, where the police have indicated in their view justification for introducing the Late Night Levy, it will need to have sufficient reasons for not introducing the Late Night Levy.</p> <p>The process for considering whether or not to introduce the Late Night Levy is a statutory process which needs to be followed. If the Authority does not follow the correct process this could result in a legal challenge and, if successful, the refund of any levy paid (plus interest) as well as legal costs.</p> <p>Although there is no appeal against the introduction of a Late Night Levy any decision regarding the Late Night Levy could be subject to challenge by way of judicial review. Unless the hearing is expedited, it is likely to take many months before a decision is made.</p> <p>In a number of representations reference is made to the lack of information with regard to the cost of policing the late night economy and reasons for starting the process for considering whether or not to introduce the Late Night Levy. This information was not required at the consultation stage according to section 1.8 of the guidance. The regulations require consultation only on the proposed levy. The consultation process provided the police the opportunity to demonstrate the relevant figures and for any person to provide a response to the question or whether or not the Late Night Levy should be introduced and if it is introduced the form it should take.</p> <p><b>Contact officer: Sarah Farooqi, <a href="mailto:sarah.farooqi@teWKesbury.gov.uk">sarah.farooqi@teWKesbury.gov.uk</a>, 01684 27 2693</b></p>
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<p><b>HR implications (including learning and organisational development)</b></p>	<p>While there are few direct HR implications for the potential implementation of the late night levy, consideration will need to be given to ensure that any additional workload created by the levy is effectively resourced, especially if there are specific timelines to adhere to (e.g. Additional license change requests prior to implementation.)</p> <p>Staff welfare needs to be considered as there may be adverse feedback to individuals from those being charged the levy especially if they feel it is unfair or inappropriate.</p> <p><b>Contact officer: Richard Hall, richard.hall@cheltenham.gov.uk, 01594 812634</b></p>
<p><b>Key risks</b></p>	<p><b>As Identified in Appendix 1</b></p>
<p><b>Corporate and community plan Implications</b></p>	<p>Cheltenham has a strong and sustainable economy</p> <p>Communities feel safe and are safe.</p> <p>Our residents enjoy a strong sense of community and involved in resolving local issues.</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.
- 1.1** 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.
- 1.2** 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.
- 1.3** 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.
- 1.4** The new discretionary power, if adopted by the Council, enables the Authority to charge a levy from 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 Authority should discuss the need for a levy with the relevant PCC and the relevant Chief Officer of Police. The Authority 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** Following consultation, if the Council resolves to adopt the levy, it must notify the Chief Officer of Police, the PCC and all licence holders in relation to premises which permit the supply of alcohol within the late night supply period ("relevant late-night authorisations"). Holders of relevant late-night authorisations must be given three months' notice of the implementation date to permit those premises not wishing to pay the levy to apply for a free variation of their licence. The cost of processing free variations will be a deductible expense from the levy receipts.
- 2.5** The levy, if adopted, will apply indefinitely until the Council decides that it will cease to apply. It is recommended that the Council may wish to review the requirements for the levy at appropriate intervals but a decision that the levy should cease to apply can only be made at the end of a levy year.

### 3. Characteristics of the Levy

- 3.1 Subject to exemptions that may be applied (see paragraph 4), the levy must have effect in the whole borough.
- 3.2 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 at least one day 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.
- 3.3 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.
- 3.4 The levy will not apply to Temporary Event Notices (TENs) that authorise the sale of alcohol during the late night supply period.

### 4. Permitted Exemptions & Reductions

- 4.1 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.
- 4.2 Permitted exemption categories are:

**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.

- 4.3 Members are to note that not all the above permitted exemption apply to Cheltenham. For the avoidance of doubt, there are currently no Business Improvement Districts in Cheltenham and due to the nature of the borough we do not have any country village pubs. Notwithstanding the aforementioned, Members must also decide whether these exemption categories should be

exempted or not along with the ones that do apply to Cheltenham.

**4.4** In addition to permitted exemption 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.

**4.5** Qualifying best practice schemes are schemes that have:

- a) 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,
- b) a requirement for active participation in the scheme by members, and
- c) a mechanism to identify and remove in a timely manner those members who do not participate appropriately.

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

**4.7** Finally, the Council can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief and have a rateable value of £12,000 or less.

## **5. The Levy Charge and Collection**

**5.1** 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:

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

**5.2** Put in context, charges range from 82p to £12.16 per day.

**5.3** Members are to note that premises will pay the levy when their normal annual fee becomes due during the year. As a result, the full income of the levy payments will not fully be collected until 12 months after the implementation date, i.e. 1<sup>st</sup> April 2015 if the agreed date is set as 1<sup>st</sup> April 2014.

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

## **6. Levy Revenue**

**6.1** Section 131(4) of the 2011 Act stipulates that the Authority must pay at least 70% of the net income of the levy to Police and Crime Commissioner (“PCC” hereafter). The Authority 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.

**6.2** Members are to note that whilst the regulations and guidance prescribe what the Authority 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." However, to give assurance to Members, the PCC has given an undertaking, in his consultation response, that any monies received from the levy will be used to fund initiatives that tackle alcohol related crime and disorder within the borough of Cheltenham.

**6.3** The 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. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012 describe relevant expenses as expenses incurred by the Council in connection with:

- 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.

**6.4** The Authority 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<sup>1</sup>**

**7.1** Assuming the late night supply period starts at the proposed 00:01, approximately 218 licensed premises would be affected. Not taking into account any exemptions, reductions, licence variations and deductible expenses, the gross income based on the aforementioned will be approximately £199,000.

<b>Fee Band</b>	<b># of premises</b>	<b>Levy</b>	<b>Gross Revenue</b>
A	11	£299	£3,289
B	120	£768	£92,160
C	41	£1259	£51,619
D	13	£1365	£17,745
E	23	£1493	£34,339
		<b>Total (Gross)</b>	<b>£199,152</b>

**7.2** The current proposal is for the late night supply period to start at 00:01. Members can decide to set the late night supply period to start at a later time between midnight and 06:00.

**7.3** For the information of Members, 00:01 was deliberate because there are a number of premises where the terminal hour is midnight and if the late night supply period were to start at midnight,

<sup>1</sup> Members are to note that due to the constant changes to licences it is not possible to give exact figures as these are likely to be out of date by the time this report is being published. As a consequence, the figures above are intended to give Members a general indication of the likely gross income. It is not anticipated that there will be a substantial variance in terms of the total gross income however.

those premises would 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 Authority will be able to recover the costs it incurs administering free applications from the gross income.

- 7.4** It is proposed that premises authorised to supply alcohol for on consumption only between midnight and 6 am on 1 January be exempt from liability to pay the levy. The proposal is based on the fact that:
1. There was significant support for this exemption in the consultation feedback; and
  2. The authority recognises that the majority of premises eligible for this exemption would only be open for the one day in the year.
- 7.5** The net levy income will be reduced by approximately £23,000 if Members approve the reduction for best practice schemes and approximately £16,000 if premises eligible for small business rate relief are also in receipt of the eligible reduction.
- 7.6** The guidance makes it very clear that the Council must take in to account any financial risk, such as lower than expected revenue, prior to making a decision to adopt the levy. If Members were to adopt the levy and set the night supply period to start later than the proposed 00:01, apply the 30% reduction and approve any permitted exemptions, consideration will have to be given to the financial viability of adopting the levy. Whilst there is no threshold of when the reduction in the levy income would become financially unviable, the policy aim of reducing late night crime and disorder might be defeated if there are insufficient funds raised to make a noticeable difference to the management of the late night economy.

## **8. Cabinet Proposal & Consultation**

- 8.1** On the 21<sup>st</sup> of May 2013 Cabinet made a proposal to adopt the levy in Cheltenham.
- 8.2** The Cabinet proposal is set out below:
- a) To adopt the levy in Cheltenham;
  - b) Set the late night supply period from 00:01 to 6am;
  - c) Not to exempt any premises;
  - d) To apply the 30% reduction to qualifying best practice schemes, in Cheltenham's case Best Bar None and Night Safe;
  - e) Not to apply the 30% reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief and have a rateable value of £12,000 or less;
  - f) To set the proposed implementation date as 1<sup>st</sup> of April 2014; and
  - g) To use of the net amount of levy payments as a single programme in conjunction with the PCC.
- 8.3** Following the proposal, a 12 week consultation was undertaken between June and August.
- 8.4** Subsequent to the proposal by Cabinet in May, the relevant functions and responsibility regulations were amended to formalise the intention that a decision to adopt the levy must be made by full Council.

## **Response**

- 8.5** In total, 47 responses were received. Attached at **appendix 2** is a list of consultation

respondents.

- 8.6** To facilitate an informed debate and decision making, a breakdown of the feedback received and officer comment is attached at **appendix 3**.

### **Statutory Criteria**

- 8.7** In making a decision whether to adopt the levy, by law the Council must consider:
1. the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
  2. having regard to those costs, the desirability of raising revenue.

### **Costs of policing and other arrangements**

- 8.8** In relation to the costs of policing and other arrangements for the reduction or prevention of crime and disorder, the consultation response submitted by the Chief Constable and PCC outlines these costs.
- 8.9** Their report indicates that the total annual cost to the constabulary for policing the night time economy in Cheltenham is £542,113. This comprises of £128,960 for Mondays, £140,899 for Fridays and £188,872 for Saturdays. These are annual costs not per night.
- 8.10** In addition, the constabulary has also identified twenty "hot spot nights" such as New Year's Eve, Bank Holidays, weekends, Mondays, Exam days etc. which adds another £83,382.00 to the above total.
- 8.11** Finally, the police have also identified that other measures for the reduction or prevention of crime and disorder also include the work of street pastors (£14,500 annually) and the Student 'Superstars Extra' initiative (£4,398 annually).

### **Desirability of raising revenue**

- 8.12** Having regards to the above costs, the Council must consider the desirability of raising revenue.
- 8.13** Whilst it goes without saying that the Council must comply with this requirement, the scope of what it can take into consideration is less clear and nothing in the 2011 Act or the guidance provides clarification.
- 8.14** It would not seem right that "desirability" of the levy is only relevant as a means of defraying those costs because that would mean that the Council could not have regard to the many of the other issues that have been raised in the consultation. It is therefore not considered that the Council is prohibited from considering other issues relevant to a decision to adopt the levy.

## **9. Policy, Corporate, and Police & Crime Plan Considerations**

### **Licensing Act 2003 Licensing Policy Statement**

- 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.

## **Corporate Strategy**

- 9.2** The corporate strategy sets out a commitment to ensure that communities feel safe and are safe through, amongst others, the Council working in partnership with the police to reduce incidents of anti-social behaviour and alcohol-related violence and the harm these cause to communities. The adoption of the levy in Cheltenham would promote the Council's commitment to making our communities feel safe and be safe.

## **Police & Crime Plan**

- 9.3** Although the proposal is to apportion the funds 70:30 between the PCC and the Authority, the aim will be to have closely coordinated spend of the funds in order to achieve jointly agreed outcomes. The jointly agreed outcomes will, from the PCC side, take account of the Police and Crime Plan, and the Authority's will make any additions necessary to take account of the Authority's desired outcomes and corporate strategy.
- 9.4** A core principle is that the money should not be used by either the PCC or the Authority simply to replace existing public funding for mainstream services. It is important that the levy is seen to be used in a way which is additive to existing services.

## **Licensing Act 2003**

- 9.5** Under the Licensing Act 2003, the Council is required to promote the licensing objectives when discharging its function under the Act, which have equal importance:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

- 9.6** The adoption of the levy can assist in the achievement of these policy and objectives by providing additional funds.

## **10. Late Night Levy Advisory Group**

- 10.1** It is proposed that agreement be reached with the PCC regarding the use of the net amount of levy payments as a single programme and the establishment of a Late Night Levy Advisory Group to facilitate a single programme.

- 10.2** It is a fundamental principle that, should the levy be adopted, any funds raised should be spent in Cheltenham. In order to achieve fully coordinated management of the fund, it is proposed that the principle will be to achieve sign off for decisions on funding from the levy income jointly by the PCC and by the relevant Cabinet Member (currently Housing and Safety).

- 10.3** It is further proposed that a Late Night Levy Advisory Group be created that will inform the sign-off process by making recommendations to the PCC and relevant Cabinet Member. Membership of the advisory group would include representatives of the licensed trade and appropriate stakeholders who provide support in handling issues from the night time economy.

## **11. Outcomes**

- 11.1** The policy aim of the levy is to raise a contribution towards the costs of policing the late-night economy. Below are 'indicative' outcomes that could be achieved by the levy if adopted:

- a) Reduce vulnerability caused by excessive consumption of alcohol.
- b) Raise awareness and support responsibility.
- c) Develop an approach in partnership with the trade and other stakeholders that recognises

and reduces vulnerability.

- d) Promote greater diversity in the night time economy.
- e) Support a mixed offer that is not solely focused on alcohol.
- f) Encourage a wider number and mix of people coming into Cheltenham's night time economy.
- g) Support better management of licensed premises and public spaces.
- h) Engender a one team approach to policing the night time economy.
- i) Create a raft of measures that supports safe movement through the night time economy.

## 12. How will success be measured?

- 12.1 If adopted, a levy will apply indefinitely until the Council decides 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.
- 12.2 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.
- 12.3 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.

## 13. Accountability & Transparency

- 13.1 The Late Night Levy (Application and Administration) Regulations 2012 specify what the Authority must spend its portion of the levy on but the same does not apply for the PCC. There has been some concern by some Members and the trade that the lack of spending requirements on the PCC may result in the monies raised could be spend elsewhere.
- 13.2 Members will however note that the PCC's response outlines a commitment that any monies raised in Cheltenham will be spent in the borough.
- 13.3 Furthermore, there is a statutory requirement that the Authority publish:
  - At the beginning of each levy year, an estimate of the Authority's deductions from the gross income of the levy; and
  - At the end of each levy year, a statement showing the total net income from the levy and the actual expenses deducted from the levy.

## 14. Proposed Timetable For Implementation

26 August 2013	End of Statutory Consultation, Consideration of Outcome of Consultation and Finalisation of Proposals [Further Consultation, if necessary]
December 2013	Report to full Council
January 2014	Notification of Decision
January 2014 – March 2014	Determination of Minor Amendments to Vary Hours
April 2014	Implementation and Start First Levy Year

<b>Report author</b>	<b>Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 77 5004</b>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. List of Respondents</li> <li>3. Consultation Responses Breakdown and Officer Comments</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. Consultation Responses (these are available on the website and a full set is in the Members Room for Councillors)</li> <li>2. Police Reform and Social Responsibility Act 2011, Part 2, Chapter</li> <li>3. The Late Night Levy (Application and Administration) Regulations 2012</li> <li>4. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012</li> <li>5. The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013</li> <li>6. Licensing Act 2003 "Amended Guidance on The Late Night Levy", December 2012, Home Office</li> <li>7. Cheltenham Borough Council's Licensing Act 2003 Licensing Policy Statement, Approved by Council 10th of February 2012</li> <li>8. Cheltenham Borough Council's Corporate Strategy</li> <li>9. Cabinet Report and Minutes, 21<sup>st</sup> of May 2013</li> <li>10. Consultation Document</li> </ol>

**Risk Assessment**

**Appendix 1**

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
	There is a financial risk to the Council if the actual levy income is considerably less than the estimated net income.	Licensing & Business Support Team Leader	16/12/13	3	3	9	Accept	- Close budget monitoring. - Ensure levy income is ring fenced. - Ensure the levy spend is properly considered & directed to address identified issues.		Louis Krog	
	There is a risk that there will be an adverse effect on the late night economy in the borough which could have a further effect on employment and other late night economy such as taxis, late night takeaways etc.	Licensing & Business Support Team Leader	16/12/13	2	3	6	Accept			Louis Krog	
	There is a risk that premises affected by the levy may apply to close earlier which could have a further economic impact on the individual businesses and wider economy.	Licensing & Business Support Team Leader	16/12/13	2	3	6	Accept			Louis Krog	
	There is a risk that the imposition of the levy could adversely affect investment in the borough if businesses do not want to pay the additional operating costs.	Licensing & Business Support Team Leader	16/12/13	2	3	6	Accept			Louis Krog	