

# Consultation Responses

## Support for the Late Night Levy being introduced in Cheltenham

40% (19) of respondents supported the proposal to adopt the levy whilst 45% (21) opposed it. (15% (7) no answer/did not know)

Of the 40% of respondents who supported the proposal, 16.5% were licence holders, 56% residents, 16.5% Members (including the licensing committee) and 11% were other respondents.

Of the 45% who opposed it, 14% were residents, 5% Members, 10% were other respondents and 71% were trade or trade bodies.

### Other Comments:

In addition to the specific questions mentioned above, respondents have also submitted other comments to the Council in relation to its proposal. These are summarised below and Members are encouraged to refer to the actual submissions for more information and context.

1. The levy is too indiscriminate and inflexible because it makes no distinction between good and bad premises thus unfairly affecting well run establishments.
2. The scope of the levy is too narrow only penalising late night premises when lots of other business/premises, not licensed past midnight, also make a significant contribution – particularly the availability of cheap alcohol at supermarkets leading to preloading.
3. Licensed premises already pay high business rates, the income from which should be used to pay for policing the late night economy.
4. The additional financial burden could have an adverse effect on the town because, whilst the bigger national operator can absorb the additional costs, smaller more independent retailers may not which will limit choice, reducing the town's attractiveness as a place to live, visit and invest.
5. The levy will result in a number of premises varying their licence to close at midnight which will result in a high number of people being ejected all at the same time which will require additional policing resources. Another implication would be larger crowds of people queuing to get into premises that have opted to stay open past midnight.
6. Premises, particularly smaller ones, will have to find new ways to get people through the doors to raise additional revenue to pay the levy. This could lead to an increase in drinks promotions to entice more customers.
7. The levy will place additional and unjustified financial burdens on licensed premises.
8. The charging structure and fees are excessive, unreasonable and too inflexible particularly if liability to pay is based on just one night a year (i.e. only open over New Year) or premises who only sell/supply alcohol as an ancillary part of their business.

9. It has also been noted that the charging structure and fees are unfair because it is based on the rateable value not capacity. Therefore, a premises with a much lower capacity, those at the lower end of a rateable value banding, could fall within the same charging bracket as a premises with a much higher capacity at the top end of a rateable value band. Whilst both premises would be charged the same amount, the premises with the lower capacity would not have the benefit of the higher income (despite paying the same) and would impact less on the need to manage the night time economy.
10. Some premises have also said that they do not charge an entry fee whilst others do. The ones that do not are normally smaller premises but by not charging an entry fee they again do not have the benefit of the additional income to cover the additional expense that the levy might place on them. They also report that they do not have the option to introduce an entry charge as most people will prefer to pay to enter elsewhere.
11. A proposal was submitted that the Council should adopt a "sliding scale" of payments that more fairly reflects the trading hours.
12. Late night crime and disorder in Cheltenham has consistently fallen which makes the imposition of the levy unjustified. There are sufficient powers available to the Council and Police to deal with the "residual" crime and disorder.
13. Mr Gary Patterson from G's Bar has submitted, as part of his response, a petition signed by 990 people.
14. General feeling that there is too much late night drinking in the town that requires policing and concern that the drinking culture in Cheltenham is adversely affecting the reputation and character of the town.
15. A lot of resources are required to manage the night time economy and the businesses who contribute to the need to police it should contribute. Policing of the night time economy should not be paid for by the tax payer.
16. Concern and perception that some areas of the town have become no go areas.

### **Officer Comments**

1. Members will note that there has not been an overwhelming response either in favour or against the adoption of the levy.
2. In relation particularly to the licensed trade, of the 210 licence holders who will be affected if the levy were to be adopted, only 36 licence holders, representing 17% of the affected licensed trade, responded. Members are to note that of the aforementioned trade responses, 3 did not oppose the adoption of the levy in principle including Mr Patterson from G's Bar who submitted the petition.
3. National trade associations were predominantly opposed to the adoption of the levy in Cheltenham.
4. If the Council were to adopt the levy, it must apply to the entire Borough and to all premises with a relevant late night authorisation. There is no discretion to apply it to certain location(s) of the borough or to certain types of premises.

5. The levy fees and charging structure is prescribed in regulations and is something that the Council has no discretion over. The relevance of a proposal to adopt a sliding scale is therefore limited only to a decision of whether the charging structure of the proposed levy is fair or not and therefore whether the levy is fair or not. The proposal would not be relevant if Members decide to adopt the levy because it cannot change the way it must be charged.
6. Prior to the consultation, there was no indication of how many premises would apply for a free variation of their licence and even after the consultation only a few premises have indicated that they are likely to do so. It is not possible at this stage to determine a definitive number of how many premises will apply to vary their licence. It is anticipated that the majority of premises who may apply to vary their licences are those currently licensed between midnight and 1am. However, it is not expected that every premises, or even a significant amount, currently licensed between midnight and 1am will apply to change their licence.
7. A number of respondents stated that since they already pay high business rates, this should pay for policing. Members are to note that business rates collected by the Council do not contribute towards to policing and therefore comments relating to business rates are irrelevant in reference to the levy.
8. Members will note from the response submitted by Gloucestershire Constabulary and the PCC that violent crime has fallen. However, it is also worth noting that this fall is attributable to good partnership work between the Council, Police, trade and other voluntary schemes and organisations such as street pastors, University of Gloucestershire, taxi marshalls etc. The reality is this work requires funding. For example, Members will note also from the police response, that whilst street pastors are entirely voluntary, the scheme still requires funding to operate. The reality is without additional funding these schemes could very well cease to operate as funding runs out which in itself will have an adverse affect on the town and its ability to effectively manage its night time economy.

### **Date from which the late night levy requirement is first to apply**

38% (13) of respondents agree with the proposed implementation date of 1 April 2014. 30% (14) did not and 32% (20) did not indicate a view either way.

### **Officer Comments**

1. Members are to note that those who disagreed with the proposed implementation date mainly did so not because they disagreed with the date per se but because they objected to the levy as a whole and therefore also any proposed implementation date.
2. A number of respondents indicated that a date sooner than 1<sup>st</sup> of April 2014 should be set. Members are to note that due to a statutory process that must be followed it will not be possible, or indeed lawful, to set a date sooner than 1<sup>st</sup> of April 2014.
3. For information, the 1<sup>st</sup> of April 2014 was chosen to coincide with the financial year and allowed sufficient time to comply with the prescribed statutory lead time.

### **Late night supply period**

30% (14) of respondents supported the proposal that the late night supply period should be 00:01 to 06:00. 43% (20) disagreed and 27% (13) did not answer or did not know.

### **Officer Comments**

4. Members are to note that whilst more than 50% of respondents disagreed with the proposed late night supply period, it is mostly attributable to the fact that they objected to the levy as a whole and therefore also to the proposed late night supply period.
5. 9 respondents proposed that the late night supply period should start at 1am or later. If Members are minded to set the late night supply period at a later time, Members should be mindful of the financial implications set out in paragraph 7.6 of the report.
6. Members are to note that the Police have indicated in their consultation response that alcohol related incidents have increased between 00:00 and 05:00 hours with the peak time being between 0300 and 0400 hrs. The data indicates that over the past 12 months the numbers of incidents have risen from 653 to 686 between 00:01 and 06:00 hours. They therefore support the proposed late night supply period.

### **Exemptions**

28% (13) of respondents agreed with the Council's proposal not to exempt any premises whilst 47% (22) said some exemptions should be applied. The remaining 25% (12) did not indicate either way.

### **Officer Comments**

1. The permitted exemption categories are outlined in paragraph 4.2 of the report. Members are to note that not all the permitted exemption categories will apply to Cheltenham. Nonetheless Members must also decide whether these exemption categories should be exempted or not along with the ones that do apply to Cheltenham.
2. The PCC and Chief Constable have taken the view that no premises should be exempted from paying the levy because it would maximise the revenue and keep the scheme as simple as possible to administer.
3. There was significant support for premises with overnight accommodation (40%) and premises open for New Year's Eve (42%) to be exempted from paying the levy.
4. Clearly any decision to exempt certain premises, and not others, should be based on sound rationale. When giving consideration as to whether and which premises the Council may wish to exempt, the guidance states the following:

*"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." (para 1.23)*

*“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.” (para 1.24)*

5. For the avoidance of doubt, community premises only qualify where they have successfully applied for the removal of the mandatory designated premises supervisor (DPS). Only community premises that can satisfy the Council and Police that they operate responsibly are granted the DPS exemption.

## **Reductions**

### **Qualifying Best Practice Schemes**

55% (26) of respondents agreed that qualifying best practice schemes should be eligible to receive a reduction. Only 15% (7) disagreed and 30% (14) did not indicate either way.

### **Officer Comments**

1. Paragraph 4.4 of the report sets out the requirements for qualifying best practice schemes. There are currently two best practice schemes that would qualify for the permitted reduction, these being Night Safe and Best Bar None.
2. Members should be mindful of the financial implications set out in paragraph 7.6 of the report.

### **Small Business Rate Relief (SBRR)**

38% (18) of respondents said premises in receipt of SBRR should also be eligible to a reduction whilst 26% (12) said they should not. 36% (16) did not indicate either way.

### **Officer Comments**

1. Members are to note that 22 premises that are eligible for SBRR will be affected by the adoption of the levy. Four of these premises are also members of a qualifying best practice scheme and will therefore already be eligible for the reduction.
2. The Council is eager to encourage premises to actively participate in schemes that actively work to reduce crime and disorder in the late night economy therefore applying the reduction to best practice schemes and not SBRR will encourage take up.

## **Levy Portion**

There was overwhelming support (57%) for the development of a single programme delivered in partnership between the Council and the PCC instead of seeing the levy revenue split between two separate programmes. 13% opposed such a proposal and 30% did not indicate either way.

There was no overwhelming view in terms of the proposed revenue split. 28% of respondents agreed that a 70:30 (Police:Council) revenue split is appropriate with

only 15% of respondents saying the PCC should receive more as opposed to 57% saying he should not.