

Cheltenham Borough Council
Council – 23 February 2017

The future of the Late Night Levy in Cheltenham

Accountable member	Councillor Andy McKinlay, Cabinet Member for Development and Safety
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>In December 2013, Council passed a resolution that the Late Night Levy should apply in Cheltenham effective from 1 April 2014.</p> <p>The levy is an additional annual fee payable by all premises licensed to sell alcohol at any time of the year between 00:01 and 06:00 with the exception of those selling alcohol during the specified times for just new year.</p> <p>In 2016 Cheltenham adopted its first Business Improvement District that also imposes a BID levy on relevant businesses.</p> <p>Following discussions and consultation with licence holders and key stake holders, it is proposed that the levy cease to have effect in Cheltenham in favour of the BID.</p>
Recommendations	<p>Council is recommended to:</p> <ol style="list-style-type: none">1. Note and consider the consultation feedback;2. Pursuant to section 133(1) of the Police Reform and Social Responsibility Act 2011 resolve that the Late Night Levy is to cease to apply in Cheltenham effective 31 March 2017; and3. Subject to resolution 2, delegate authority to the Director of Environment, in consultation with the Cabinet Member for Development and Safety, to do all things necessary to implement the decision.

Financial implications	<p>If the Late Night Levy (LNL) is discontinued, the council will see a drop in revenue, offset against a reduction in transfers to the Police and Crime Commissioner for Gloucestershire, so the actual impact on net income is approximately £20k per year. Where this money is spent on services that the BID have undertaken to supply, there will be a further cost saving with no impact on outcomes for the public. Where the money is currently spent on services which the BID have not undertaken to supply, the Council will need to decide whether to find a budget to continue to provide those services after the remaining LNL pot is used up.</p> <p>Contact officer: Myn Cotterill, myn.cotterill@cheltenham.gov.uk, 01242 774958</p>
Legal implications	<p>As detailed in the body of the report</p> <p>Contact officer: Vikki Fennell, vikki.fennell@tewkesbury.gov.uk, 01684 272015242</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications detailed in this report.</p> <p>Contact officer: Carmel Togher, HR Business Partner</p> <p>Email carmel.togher@cheltenham.gov.uk</p> <p>Tel: 01242 775215</p>
Key risks	<p>As outlined in Appendix 1.</p>
Corporate and community plan Implications	
Environmental and climate change implications	<p>N/A</p>
Property/Asset Implications	<p>N/A</p>

1. Background

- 1.1** Part 2 of the Police Reform and Social Responsibility Act 2011 (“2011 Act”) introduced a discretionary power for Local Authorities to introduce a Late Night Levy (“levy”) to apply in their districts.
- 1.2** The power enables the Authority to charge a levy on 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.
- 1.3** The amount of the levy is prescribed nationally by statutory regulations and is based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises rateable value.
- 1.4** Section 131(4) of the 2011 Act stipulates that an authority must pay at least 70% of the net income of the levy to the local Police and Crime Commissioner. 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:
 - 1.4.1** the reduction or prevention of crime and disorder;
 - 1.4.2** the promotion of public safety;
 - 1.4.3** the reduction or prevention of public nuisance; and/or
 - 1.4.4** the cleaning of any relevant highway or relevant land in its area.
- 1.5** In Cheltenham however a joint spending arrangement with the Police and Crime Commissioner was agreed.
- 1.6** If Council were to resolve that the levy should cease to have effect in Cheltenham, section 133(7)(a) of the 2011 Act specifies that such a decision can only take effect at the end of a levy period. In the case of Cheltenham this will be 31 March 2017.

2. Late Night Levy in Cheltenham

- 2.1** In December 2013, Council passed a resolution that the levy should apply in Cheltenham effective from 1 April 2014.
- 2.2** The following outcomes have been promoted through the LNL spending:
 - 2.2.1** Promoting a greater diversity in the night time economy that is less focused on alcohol.
 - 2.2.2** Supporting better management of licensed premises and public spaces.
 - 2.2.3** Creating a raft of measures that supports safe movement through the night time economy.
 - 2.2.4** Working together to reduce alcohol related health harms by preventing vulnerability, promoting safe drinking limits and reducing pre-loading.
 - 2.2.5** Working together to promote a clean environment.
- 2.3** Since April 2014, the levy has raised over £250,000. Projects and work funded by the levy include, amongst others:
 - 2.3.1** Purchase of body worn CCTV cameras for the taxi marshals and licensed door staff;

- 2.3.2 Funding a “club hosts” trial in partnership with Drink Aware;
- 2.3.3 Funding academic research to evaluate the potential impact on alcohol misuse of a “Responsible Off-Licensing Scheme” in Cheltenham;
- 2.3.4 Free first-aid training for licence holders;
- 2.3.5 Supporting the setup of Cheltenham’s first alcohol free venue in the night time economy;
- 2.3.6 Obtaining Purple Flag accreditation for the town; and
- 2.3.7 Supporting the work of various partners in the night time economy including the University Student Patrol, Cheltenham Safe and St. Paul’s Street Watch.

3. Business Improvement District

- 3.1 In August 2016, Cheltenham adopted its first Business Improvement District (“BID”). The BID is funded through a BID levy calculated as a percentage of business rates. In Cheltenham, the BID levy has been set at 1.25%, meaning that a business would pay an annual levy of 1.25% of the rateable value of their business premises.
- 3.2 The Cheltenham BID is set to generate around £440,000 annually or £2.15 million over the five-year term of the BID.

4. BID implications for the levy

- 4.1 The significant majority of licensed premises paying the levy are also subject to the BID levy which means they are disproportionately affected. The council therefore needs to take a view on this particularly in light of its corporate priorities to sustain and grow Cheltenham’s economic and cultural vitality.
- 4.2 Members are to note that the BID has undertaken to fund some of the activities currently funded by the levy.
- 4.3 The BID income is also significantly higher annually than the levy income and the BID provides a lot more flexibility.
- 4.4 If Council were to vote in favour of the levy ceasing to have effect in Cheltenham, Members must note that the BID’s funding will only apply to the BID area. Therefore projects and work currently funded by the levy but outside the BID area will not benefit from the BID funding. However, there will still be levy funding available for 2017/2018 and likely also 2018/2019 which can be used to fund these and other projects that will not benefit from the BID funding.

5. Reasons for recommendations

- 5.1 The proposal for the levy to cease to have effect is primarily based on:
 - 5.1.1 The need to ensure that businesses are not unduly burdened by two levies;
 - 5.1.2 The understanding that levy activities will be incorporated in BID activities; and
 - 5.1.3 The fact that BID income will be substantially more than the income raised through the levy.

6. Alternative options considered

- 6.1 Council can resolve that the levy should continue to have effect in Cheltenham.

7. Consultation and feedback

7.1 In making a decision whether the levy should cease to apply, the council is obligated to consult with:

7.1.1 the Police & Crime Commissioner;

7.1.2 the chief officer of police, and

7.1.3 holders of relevant late night authorisations.

7.2 Accordingly, consultation was undertaken between August and December 2016. Three responses were received all of which were in support of the proposal for the levy to cease to have effect in Cheltenham. The respondents were

7.2.1 Nigel Connor, Head of Legal and Company Secretary at JD Wetherspoon PLC;

7.2.2 Jack Shepherd, Policy and Information Officer at the British Beer & Pub Association; and

7.2.3 Mr Alan and Mrs Yuen Fan Bishop, owners of Beaumont House Hotel.

7.3 Consultation responses are attached at **Appendix 2**.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Consultation responses
Background information	<ol style="list-style-type: none">1. Consultation Responses2. Police Reform and Social Responsibility Act 2011, Part 23. The Late Night Levy (Application and Administration) Regulations 20124. The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 20125. The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 20136. Licensing Act 2003 "Amended Guidance on The Late Night Levy", December 2012, Home Office7. Cheltenham Borough Council's Licensing Act 2003 Licensing Policy Statement, Approved by Council 10th of February 20128. Cheltenham Borough Council's Corporate Strategy9. Cabinet Report and Minutes, 21st of May 2013

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
	If Council decide that the levy should not cease to have effect in Cheltenham then there is a risk that it will adversely affect investment and economic development in the town particularly the town centre where businesses will be affected by both levies. This will also affect the council's reputation.	Director of Environment		2	4	8	Accept	Pass resolution			
<p>Explanatory notes</p> <p>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)</p> <p>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)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											