

Consultation on the removal of a Late Night Levy in Cheltenham

Response from the British Beer & Pub Association



Response of the British Beer and Pub Association to the consultation on the removal of a Late Night Levy in Cheltenham

Background

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector. Its members account for 96 per cent of the beer brewed in the UK and own almost half of Britain's 50,000 pubs. The pub sector contributes over £19 billion to the economy and employs in the region of 600,000 people. Over 80% of pubs (i.e. nearly 40,000 outlets) are small businesses which are independently managed or run by self-employed licensees. With BBPA membership covering almost half of the pubs in the UK, we possess a wealth of experience in licensing and welcome the opportunity to respond to this consultation.

We welcome the acknowledgement by yourselves that enacting a LNL and BID in Cheltenham would impose two separate levies on businesses and we hope you share our perspective that a BID is the vastly better option. The BBPA has produced a report¹ on the LNL that details its flaws and offers alternatives of greater viability. This response will set out these key arguments below.

BBPA position - summary

The BBPA is opposed the Late Night Levy (LNL) as a licensing tool. This is inclusive of the updated definition of the LNL, set out in the new Modern Crime Prevention Strategy² and proposed in the current Policing and Crime bill³, which looks to increase levy flexibility. We therefore welcome the proposal to abolish the LNL in favour of a Business Improvement District (BID). A BID is undoubtedly fairer as it spreads the financial burden across businesses of all types and allows for a more targeted, collaborative and business-led allocation of funds. It allows for local solutions to local problems faced by local businesses. In contrast the LNL is, in effect, a direct tax on local business and one which unfairly disadvantages pubs. Many pubs are small, independently-run businesses and the cost burden is relatively significant, especially when these businesses contribute positively to the night-time economy yet the funds collected by a LNL are not reinvested to tackle any particular problems that these small businesses face.

Context

The BBPA has always supported the five principles of better regulation (proportionality, accountability, consistency, transparency and targeting) and has continually highlighted to Government that all regulation relating to the sector must be necessary, well-evidenced and proportionate. Pubs are highly regulated businesses, absorbing the cost and social impact of new legal provisions. The Association has been concerned about the increasing levels of legislation, regulation, red tape and gold plating that has impacted on the pub sector in recent years. As explained above, the vast majority of pubs are small businesses, and they have faced much new legislation over recent years. New gambling laws were implemented in 2007, as was the ban on smoking in public places, and there have been further regular changes to licensing law, including the Police Reform and Social Responsibility Act 2011. As a further illustration of the legislative

¹ http://s3.amazonaws.com/bbpa-prod/attachments/documents/uploads/24046/original/Late%20Night%20Levy%20Report%20March%202016.pdf?1460975810?from_search=1

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

³ <http://services.parliament.uk/bills/2016-17/policingandcrime/documents.html>

burden, the sector has, more recently, been required to facilitate the compulsory introduction of the National Living Wage and forthcoming Apprenticeship Levy.

The Licensing Act 2003, which came into effect in July 2005, has undergone a number of changes, principally through the Violent Crime Reduction Act 2006 and the Policing & Crime Act 2009. The 2003 Act was the result of a thorough examination of the previous licensing system and a need to modernise it. The LNL proposals, despite the Government's earlier promises, do not address problematic individuals and how they behave which is the root cause of anti-social behaviour. Enforcement agencies have the powers to tackle such people and the licensed trade should not be penalised when the authorities choose not use their powers effectively.

The majority of pubs open into the evening and some even later, forming an important part of the wider late-night economy. Some pubs choose to take advantage of longer opening hours at weekends or for special occasions. Yet many local authorities and police acknowledge that where problems exist, they are not caused by the majority of licensed premises, especially traditional public houses or pubs offering late night entertainment to adults in a well-managed and responsible environment. Despite this, there remains a responsibility for all stakeholders to ensure a safe and well-managed night-time economy for all to enjoy, and the pub sector is fully engaged through a wide variety of partnership working schemes which are leading the way in the good management of public spaces. These schemes include, but are not limited to, Pubwatches, Best Bar None, Business Improvement Districts (BIDs) and Purple Flag. It is widely agreed that partnership with the trade is by far the best way forward to tackle any problems in the night-time economy, with closer working between venues, councils and the police. Addressing alcohol-related issues at the expense of responsible business is not the most effective approach. A safe, diverse and vibrant local economy is in the interest of all stakeholders and cooperation is key.

The LNL and its flaws

Eight local councils, including Cheltenham, currently impose a LNL, with several other having consulted upon implementation. In practice it is clear that the LNL has proved unworkable. A number of fundamental flaws exist. Firstly, legislation dictates that only 30% of Levy revenue can be allocated to local councils, with at least 70% allocated to police. Resultantly businesses have paid the LNL only for police to spend the funds in other areas of their jurisdiction. The businesses paying the Levy therefore experience no direct benefits and it is clear that in such instances the Levy is merely a direct tax. The BBPA is aware that the newly proposed changes to the LNL in the Policing and Crime bill require local authorities to publish data on how funds are spent and, where a Levy is enacted, the BBPA is supportive of this. However the change does not detract from the fact that the spending is not business-led and sets no boundaries as to how the funds must be spent. It is therefore clear that a BID would prove a better alternative.

Furthermore, the Levy can only be charged between the hours of 12am and 6am. This has led to a vast number of local businesses enacting minor variations to scale back opening hours, unveiling a reality in which Levy revenue has fallen far short of local council predictions. Moreover, pubs form a critical part of a diverse and vibrant night-time economy and, as previously mentioned, many local authorities and police acknowledge that where problems exist, they are not caused by the majority of licensed premises, especially traditional public houses or pubs offering late night entertainment to adults in a well-managed and responsible environment. Pubs in which a responsible drinking environment exists are therefore punished and this is to the detriment of the local night-time economy as pubs choose to close earlier to avoid the Levy. Such restrictions may discourage potential new businesses of all types from entering and diversifying the local night-time economy.

It is also the case that a combination of the two aforementioned factors has led several councils to reject the Levy on the grounds that net revenue from the Levy will be insignificant when factoring in administration and implementation costs. Indeed it has become evident that this council (Cheltenham) raised less than 39%

of the £199,000 figure that had been predicted in the first year⁴. A number of other councils have rejected the Levy on similar grounds:

- In Milton Keynes, despite a consultation and approval from the licensing committee, the levy was rejected by the full council for a number of reasons, including that members saw the potential of high administrative costs for minimal financial gain. In the final analysis, figures showed that the potential net profit for the council from the Levy could have been as low as £9500⁵.
- Warwick District Council officers produced a report in 2015 which recommended that a levy not be introduced due to limited revenue return following the time and cost of implementation⁶.
- Norwich City Council's Licensing Committee cited similar reasoning when they decided against a levy in 2012, after estimating that the revenue before administrative costs would be just £35,000.
- Liverpool City Council rejected the implementation of a Levy in March 2016. One key reason was that other areas with a Levy in place had not seen the financial benefits that were anticipated. Furthermore, businesses were likely to reduce opening hours to avoid paying the Levy and potential new business may be discouraged from entering the night-time economy⁷.

Business Improvement District – a superior alternative

BIDs have been operating across the UK for over a decade and there are over 250 BIDs now established around the country, a testament to their success. As previously mentioned, the BBPA supports the implementation of a BID, which spreads the financial burden between businesses of all kinds and allows for a more targeted and business-led reallocation of these funds. BID levy money that is raised is ring-fenced for use in the BID area and can be used for improvements to the area as well as promotion of its attractions, which can lead to increased footfall and trade. Most importantly, businesses become active stakeholders in creating a safe, diverse and vibrant night-time economy. It is key for local authorities to understand that local businesses are not the cause of local issues but instead are both willing and able to assist in addressing these issues. Central to this theme is partnership working between all stakeholders. A number of local councils have already recognized that such partnership working, in the form of a BID, is the way forward:

- A 2013 report by Bristol City Council's Licensing Policy Scrutiny Board⁸ concluded that a BID scheme would provide for more targeted spending of funds and include businesses and stakeholders in efforts to manage the night time economy.
- Leeds City Council also rejected a levy in 2013, with a report⁹ by the Scrutiny Board labelling the legislation 'fundamentally flawed, particularly in terms of flexibility and unfair costs for some licensed premises. The same report stated the Executive Board's support for a city centre BID scheme instead, which has since been set up. It also recommended further work with the licensed trade to improve existing partnership schemes.

⁴ <http://www.popall.co.uk/news-publications/news/summary-report-cheltenham-borough-councils-late-night-levy-one-year-on>

⁵ <https://www.popall.co.uk/news-publications/news/milton-keynes-full-council-reject-late-night-levy>

⁶ <http://www.kenilworthweeklynews.co.uk/news/late-night-charges-unlikely-for-pubs-in-warwick-district-1-7064009>

⁷ <http://www.liverpoolecho.co.uk/news/liverpool-news/levy-plan-pay-policing-late-11092345>

⁸ <https://democracy.bristol.gov.uk/Data/Licensing%20Policy%20Scrutiny%20Board/201308231000/Agenda/0607mins.pdf>

⁹ <http://democracy.leeds.gov.uk/documents/s106406/Late%20night%20levy%20Appx%20Scrutiny%20Board%20report%2021%2011%2013.pdf>

Partnership working – beyond a BID

A Business Improvement District is one scheme that operates effectively within a wider framework of local partnership working. There is a range of partnership schemes which are either business-led or have significant input from businesses as key stakeholders. The partnerships work towards creating a safe and vibrant local economy and use local solutions to address local issues. Whilst each scheme has a different area of focus, a combination of different schemes can often be extremely effective in helping to address any problems that an area might face, creating a safer and more appealing space for all. Such schemes have been recognised as beneficial by other local councils:

- In October 2012 Havant Borough Council’s Licensing Committee rejected a levy, citing falling levels of alcohol crime and disorder which the police had partly attributed to the successful local PubWatch scheme¹⁰.
- Weymouth & Portland Borough Council Licensing Committee rejected a levy in 2015, due to a lack of evidence to support the scheme. In a report providing evidence to the council, Dorset police highlighted that a BID was already in place and it was supporting the local Best Bar None scheme¹¹.

The below schemes have all proved effective in addressing local alcohol-related issues.

Pubwatch

There are over 650 local Pubwatch schemes throughout the United Kingdom working to achieve a safer drinking environment in all licensed premises throughout the UK. Local Pubwatch schemes bring together licensees and seek to establish good relationships with the police and reduce alcohol-related crime by working together to ban individuals who cause trouble. National Pubwatch works to support local schemes by sharing best practice, advice and information.

Durham Pubwatch has been established for a number of years. The Durham Pubwatch works successfully in close partnership with Durham City authorities, including initiatives to help train licensees, bar staff, and door staff on best practice, and clampdown on violent and disorderly incidents at licensed establishments. This has helped contribute towards a 15% drop in alcohol-related anti-social behaviour in the city over the past year. Durham Pubwatch is also active in the City Safety Group scheme to improve public safety around rivers, particularly for those under the influence of alcohol.

Best Bar None

Best Bar None exists to recognise and promote the best standards in safety, training and operations across the late night economy, and is a collaboration between police, local authorities, licensed venues and the alcohol industry. The Best Bar None awards scheme was first piloted in Manchester in 2003. It has since been taken up by more than 100 towns and cities across the UK. Best Bar None accreditation is awarded to venues with strong management, who take pride in their surroundings, operate responsibly and demonstrate a commitment to reducing alcohol related harm. The process of becoming accredited includes meeting minimum standards, and rewards the most responsible premises at an annual awards event.

The scheme was launched in the Northamptonshire five years ago by Northampton Pubwatch with support from the Northamptonshire Police and Northampton Community Safety Partnership, to help create a safer town and recognise the pubs, bars and clubs that are working hard to reduce alcohol related disorder and promote responsible drinking. The Northampton Scheme is now in its fifth year and support for the scheme has been growing each year.

¹⁰ <http://havant.moderngov.co.uk/documents/s3298/Late%20Night%20Levy.pdf>

¹¹ <https://www.dorsetforyou.gov.uk/article/419278/9-July-2015-agendas---Full-Licensing-Committee---Weymouth-Portland-Borough-Council>

Community Alcohol Partnership

The Community Alcohol Partnerships (CAP) scheme, supported by the Retail of Alcohol Standards Group (RASG), brings together local retailers and licensees, trading standards, police, health services, education providers and other local stakeholders to tackle the problem of underage drinking and associated anti-social behaviour. The CAP model is unique in that it recognises that retailers and licensees are part of the solution and has been shown to be more effective than traditional enforcement methods alone.

Kent County Council has worked to develop a county-wide scheme across Kent covering Canterbury City Centre, Westwood Cross, Thanet and Edenbridge. An independent evaluation¹² by Kent University showed significant reductions in crime and anti-social behaviour as a result of the CAP.

Alongside the three examples above, Purple Flag, Street Pastors, and PASS have also provided tangible benefits and proven their worth in creating the night-time economy that all stakeholders are striving for. Partnership working is therefore a more viable alternative to a LNL.

Conclusion

The BBPA supports the implementation of a BID to replace the current Levy in Cheltenham. We are pleased that you recognise the benefits of a BID and welcome this consultation. The Levy has failed to raise the revenue that was initially anticipated and has also acted as a direct tax on local business without allowing them to become stakeholders in the process of creating a safe and diverse night-time economy. Particular consideration should be given to pubs, which are mostly small, independently-run businesses and are disproportionately impacted. Pubs are regulated drinking environments and often fully engage with partnership working, yet the Levy places a financial burden upon them and, in many cases, pubs will scale back opening hours to avoid the Levy. These extra hours lost will constitute a significant loss for a community pub. It is clear that a BID – alongside other established partnership schemes – is a far more effective approach in tackling local alcohol-related issues. The partnership approach is targeted and efficient, allowing businesses to become key stakeholders and to work towards a night-time environment that everyone wants to see.

¹² <http://www.communityalcoholpartnerships.co.uk/images/stories/KCAP%20Evaluation.pdf>