

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

EARLY MORNING RESTRICTION ORDERS AND LATE NIGHT LEVIES

Executive Summary

This report informs Members of the Licensing Committee of forthcoming changes to legislation brought into being by the Police Reform and Social Responsibility Act 2011.

It informs members of the Licensing Committee of important changes and the availability of two new tools in the licensing suite of controls namely Early Morning Restriction Orders and Late Night Levies which are designed to give local people a greater influence over the type and number of licensed premise in their communities.

Recommendations

It is recommended:

That the Licensing Committee note this report and agree to carry out a full consultation with all interested parties commencing on the 31st of October 2012 regarding the making of Early Morning Restriction Orders and the introduction of Late Night Levies and thereafter its implementation in line with the responses to that consultation.

Reason for Proposal

Statutory requirements for the Council.

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EARLY MORNING RESTRICTION ORDERS AND LATE NIGHT LEVIES

Purpose of Report

1. To outline the new powers available to Wiltshire Council from the 31st October 2012 under the amendments to the Licensing Act 2003 to make Early Morning Restriction Orders and impose Late Night Levies.
2. To agree to carry out a full consultation with all interested parties commencing on the 31st October 2012 in line with Wiltshire Councils consultation concordat on the use and scope of the new legislation available to the Licensing Authority.

Background

3. Wiltshire Council, acting as the Licensing Authority will be provided from the 31st October 2012 with two additional tools to shape and determine local licensing within its area, namely:
 - Early Morning Restriction Orders (EMROs)
 - Late Night Levies (LNLs)

Early Morning Restriction Orders

4. If the Council decides to make use of the new legislation, the power will be available to make EMROs if it is considered appropriate for the promotion of licensing objectives, rather than necessary. EMROs are being introduced alongside various other measures aimed at rebalancing the Licensing Act 2003 in favour of local communities, and to increase the tools and powers available to licensing authorities and the police to tackle alcohol-related problems in local areas.
5. If the Licensing Authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.
6. Central Government has announced that in relation to EMROs there will be no exemptions for types of premises. However the provision of alcohol to residents through mini-bars and room service in premises with overnight accommodation would be exempt and in recognition of New Year Eve`s celebration status EMROs would not apply on the 31st of December. EMROs will be a simple, pre-packaged tool for licensing authorities to use to readjust the focus of their night-time economy away from problem drinking, if such a measure would promote the licensing objectives. The effective use of EMROs may make it unnecessary for the Council to consider the use of Cumulative Impact Zones in parts of its area.
7. Draft secondary legislation will add further detail to the EMRO provisions.

Late Night Levies

8. The Late Night Levy will permit the council to charge more for late night licences to pay for additional policing. It is believed to be right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.
9. The Late Night Levy will be a local power that the Licensing Authority can choose whether or not to exercise. It must cover the whole of the Licensing Authority's area. However, the Licensing Authority will also be able to choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.
10. If the Licensing Authority chooses to introduce the levy in their area, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.

It is likely that the licensing authority will have the discretion to offer an exemption from the levy to the following categories of premises and schemes although at the time of writing this report the draft regulations listing the exemptions are still outstanding:

- Premises with overnight accommodation
 - Theatres and cinemas
 - Bingo halls
 - Community Amateur Sports Clubs ('CASCs')
 - Community premises
 - Country village pubs
 - Business Improvement Districts ('BIDs')
11. The amount of the Levy has been confirmed as follows, based upon the Non-domestic Rateable Value of the relevant premises:

Band Rateable Value Levy Amount

A - No rateable value to £4,300	Levy Amount = £299.00
B - £4,301 to £33,000	Levy Amount = £768.00
C - £33,001 to £87,000	Levy Amount = £1,259.00
D - £87,001 to £125,000	Levy Amount = £1,365.00
E - Greater than £125,000	Levy Amount = £1,493.00

In addition to the above, premises liable to pay £1,365 or £1,493 (Bands D and E) will, if they are used exclusively or primarily for the supply of alcohol for consumption on the premises, be required to pay a higher levy amount of £2,730 and £4,440 per year respectively.

12. The Licensing Authority has the power to suspend licences for non-payment of the annual fee and the levy.
13. If the Licensing Authority chooses to implement the Late Night Levy, 30% of the net income can be retained by the Council. However, this income must be used for the reduction or prevention of crime and disorder; the promotion of Public Safety; the reduction or prevention of Public Nuisance and/or the cleaning of any relevant highway or relevant land.
14. 70% of the net income will be given to the Police Authority who has the right to use it for any purpose. It is anticipated that the majority of Police Authorities, and in future the new Police Crime Commissioners, will strongly encourage Licensing Authorities to implement the Late Night Levy in their areas.
15. If the Licensing Authority does not offer any exemptions or discounts and chooses to implement the levy from midnight, the amount of **net** income that could potentially be generated from the Late Night Levy in the Licensing Authority's area would be £158,850 calculated on the current number of premises licenses that authorise the sale of alcohol after Midnight.
16. If the Licensing Authority were to choose to implement the Levy after 01:00 the **net** income would be reduced by approximately two thirds which would equate to £52,950. This reduction is to take into account that a significantly lower number of premises are currently licensed beyond 01:00.

Options

17. The options open to the Committee are;
 - Wait until the Licensing Authority has sight of the full set of secondary legislation affecting both the Early Morning Restriction Orders and Late Night Levies (i.e. on the 31st October 2012 when the EMRO's and LNL's will be enacted) before making a decision to make use of the new powers. **or**
 - From the 31st of October 2012, carry out a consultation with all interested parties on the use and scope of both new powers.

Environmental Impact of the Proposal

18. The use of Early Morning Restriction Orders where requested and evidenced by the local community will have the potential to reduce alcohol-related problems late at night for example noise and public disorder.

Equality and Diversity Impact of the Proposal

19. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities.

Risk Assessment

20. To not explore the use of two potentially valuable tools in the Licensing Authorities suite of licensing controls could lead to challenge from both Responsible Authorities and the local community.

Financial Implications

21. There will be some minimal costs involved in running the consultation process.
22. To not explore the use of Late Night Levies could lead to the potential loss of income to both the Council and the Police Authority. This income would reduce the burden on local Council tax payers by offsetting the costs involved in policing the night time economy.

Legal Implications

23. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry, economic viability and a safe night time economy. The balanced application of licensing functions is critical for the reputation of the council and for building trust and confidence in its service provision.

Conclusion

24. At this time of significant change in the legislative and policy regime, consultation with interested parties on the adoption and implementation of new powers is essential both for legal requirements and to gain support for such change.
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Background Papers

The Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

Home Office Guidance Early Morning Restriction Orders

Home Office Guidance Late Night Levies