



GENERAL LICENSING COMMITTEE
14 March 2012

ITEM 6

Report of the Strategic Director of
Neighbourhoods

**CONSULTATION ON SECONDARY LEGISLATION FOR THE LATE NIGHT
LEVY AND EARLY MORNING RESTRICTION ORDERS**

SUMMARY

- 1.1 The consultation is about two measures in the Police Reform and Social Responsibility Act 2011; Early Morning Restriction Orders (EMROs) and Night Time Levy's (NTLs) that will be implemented through secondary legislation.
- 1.2 The government intends to commence both powers but would like the views on its proposals before preparing regulations.

RECOMMENDATION

- 2.1 To consider the information in the report regarding the request for views on the consultation document; dealing with the problem of late night drinking.
- 2.2 To respond to the consultation questions on behalf of the Council.

REASONS FOR RECOMMENDATION

- 3.1 To allow members to provide the Home Office with their views on the proposals within the consultation document; dealing with the problems of late night drinking.

SUPPORTING INFORMATION

- 4.1 All supporting information is detailed in the consultation document that can be accessed at <http://www.homeoffice.gov.uk/publications/about-us/consultations/late-night-drinking>
- 4.2 The consultation responses must be received at the Home Office by 10 April 2012.
- 4.3 In an effort to assist Members in this process, licensing and legal officers have set out their initial draft comments at Appendix 2. Following a meeting with Licensing Officers from Derbyshire Constabulary's D Division, their comments have also been included for information.

OTHER OPTIONS CONSIDERED

5.1 Not applicable

This report has been approved by the following officers:

Legal officer	Olu Idowu
Financial officer	-
Human Resources officer	-
Service Director(s)	-
Other(s)	

For more information contact:	Michael Kay 01332 641940 e-mail michael.kay@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Draft Responses to Consultation Questions

IMPLICATIONS

Financial

- 1.1 None related to the consultation process itself but there will be some financial implications for Council in their administration of any adopted scheme in the future.

Legal

- 2.1 As set out in the report.

Personnel

- 3.1 None.

Equalities Impact

- 4.1 The proposed changes will apply equally to all groups within the community and no particular group(s) will be disadvantaged.

Health and Safety

- 5.1 None.

Carbon commitment

- 6.1 None.

Value for money

- 7.1 None.

Corporate objectives and priorities for change

- 8.1 The proposal supports the corporate priorities to ensure the people in Derby will enjoy **good quality services that meet local needs** and **being safe and feeling**

safe.

Appendix 2

Draft Responses to Consultation Questions

Consultation Questions	Draft Council Response	Police Comments
1. Do you think that the proposed processes for Early Morning Restriction Orders (EMRO) include sufficient consultation with those likely to be affected by an EMRO?	In addition to those consultees listed in Annex 1, consideration should be given to consultation with the relevant Health Boards and any Community Neighbourhood Partnerships.	Agree with LA Response.
2. The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31 st December and 6am on 1 st January of each year. Do you think EMROs should apply on New Years Eve?	No. Existing statutory provisions are in place to allow licensed premises to open between these hours and we see no reason why this should be changed.	Agree with LA Response.
3. Do you agree or disagree that the categories of premises set out should be exempt from EMROs?	Yes, with the exception of community premises. Unless there is a clear definition of community premises, some premises may seek to convert to avoid inclusion in scheme.	Agree with LA Response.
4. Do you have any other suggestions on the types of premises that should be considered for an exemption from the EMROs?	Yes. Consideration for an exemption should be given to restaurants, provided that a clear definition should be provided in a similar way as detailed in Part 2, Paragraph 6 of the consultation document.	Agree with LA Response.
5. Do you think there should be an option for local residents/community	If this option is considered, there would need to be very clear definitions and guidelines on local residents/community	Agree with LA Response.

groups to recommend the implementation of the levy in their area?	groups.	
6. Do you agree or disagree that the licensing authorities should be able to exempt the premises set out from the levy?	Disagree. If discretionary powers were given, there would need to be very clear definitions and guidelines.	Agree. Local decisions can be made to reflect local needs however clear definitions are needed to prevent any potential manipulation to circumnavigate the guidelines.
7. Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?	Disagree, however this may impact on new businesses wishing to open in areas with night time levy.	Disagree. New businesses must understand their responsibilities. (Agree with LA Response?)
8. Do you think that premises operating under a club premises certificate should be exempt from the late night levy?	Yes. In order to qualify for a Club Premises Certificate, the Club must adopt rules that mean they operate differently to other types of premises.	No. This would promote premises to develop into Clubs. Even true 'Clubs' can and do contribute to the problems within a Night Time economy.
9. What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?	We do not believe that any reduction should apply. Just because a premises is new does not mean the likely impact its operation will be less.	Agree with LA Response.
10. Do you agree or disagree that there should be an exemption for New Year's Eve?	Disagree. As set out in the consultation, premises who choose to reduce their hours to avoid the levy can make use of the TEN process.	Agree with LA Response.
11. Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from premises in best practice schemes?	Disagree.	Agree but premises must be 'actively working' to reduce crime and disorder and the licensing authority has the discretion to review their contribution should they be found

		not to be 'actively working'.
12. Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?	No. Some Premises licence have conditions on that require participation in such schemes, but may only pay 'lip service' to the requirement.	Premises that actively demonstrate their compliance with a local compliance folder that encourages premises' due diligence.
13. Do you agree or disagree with the setup of cumulative discounts?	Disagree.	Agree but premises must be 'actively working' to reduce crime and disorder and the licensing authority has the discretion to review their contribution should they be found not to be 'actively working'.
14. Should there be scope for the further exemptions and reductions from the late night levy?	No.	As Question 12.
15. What activities do you think licensing authorities should be able to fund with their retained proportion?	The administration of the scheme should be removed from the income prior to the split between the police and the licensing authority occurring.	Supplies for Street Pastors; Funding for Taxi Marshalls; Parking wardens; Street cleaning response units; NTE marshals?
16. What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?	This would require discussions with partner agencies to determine the impact the businesses have on the services they deliver.	Preventing and tackling alcohol related crime and disorder and management of night time economy.
17. If you have any comments on the Impact Assessment, please detail them here.	We do not have any comments to make.	Agree with LA Response.

<p>18. If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?</p>	<p>TBC – awaiting data</p>	<p>Subject of local decisions that will determine the specific areas to which such considerations would be applied.</p>
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