



BRIEFING PAPER

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Alcohol: the late night levy

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Summary

Local authorities were given the power to introduce a late night levy through the *Police Reform and Social Responsibility Act 2011*.

The levy is a discretionary power enabling licensing authorities in England and Wales to raise a contribution towards policing the late-night economy from holders of premises licences or club premises certificates. The levy must cover the whole of the licensing authority's area. The licensing authority chooses the period during which the levy applies every night, between midnight and 6am.

The amount of the levy is prescribed nationally 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.

The net levy revenue must be split between the licensing authority and the relevant police and crime commissioner (PCC). At least 70% of the net revenue must be given to the police.

The licensing authority can retain up to 30% to fund the services it provides to manage the night-time economy. These must be in connection with the supply of alcohol during the late night supply period and related to arrangements for:

- the reduction of crime and disorder;
- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.

Reforming the levy (2017)

The *Policing and Crime Act 2017* would reform the levy by:

- allowing licensing authorities to target specific geographical locations
- extending the levy to include late night refreshment outlets;
- enabling PCCs to request the licensing authority to propose introducing a levy; and
- requiring licensing authorities to publish information about how funds raised by the levy are spent

The relevant sections of the Act are not yet in force.

House of Lords Committee criticism of the levy (2017)

A House of Lords Select Committee [report](#) (April 2017) concluded that the levy has failed to achieve its objectives and should be abolished. However it also recognised that the Government's amendments "may stand some chance of successfully reforming the levy". The Government has said it will not implement its levy reforms until it has considered and responded to the Select Committee's report.

1. What is the late night levy?

Local authorities were given the power to introduce a late night levy through the *Police Reform and Social Responsibility Act 2011*.¹

The levy is a discretionary power enabling licensing authorities in England and Wales to raise a contribution towards policing the late-night economy from holders of premises licences or club premises certificates. The levy must cover the whole of the licensing authority's area. The licensing authority chooses the period during which the levy applies every night, between midnight and 6am.

The amount of the levy is prescribed nationally 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.²

The net levy revenue must be split between the licensing authority and the relevant police and crime commissioner (PCC). At least 70% of the net revenue must be given to the police.³

The licensing authority can retain up to 30% to fund the services it provides to manage the night-time economy. These must be in connection with the supply of alcohol during the late night supply period and related to arrangements for:

- the reduction of crime and disorder;
- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.⁴

The licensing authority can choose to amend the portion of net revenue given to the PCC in future years. This decision must be subject to consultation in the same way as a decision to introduce the levy.

A November 2010 [Impact Assessment](#) on the *Police Reform and Social Responsibility Bill* calculated that 94 licensing authorities had enough late opening premises to generate sufficient revenue from the levy to have an incentive to implement it in their area.⁵ However only seven licensing authorities have implemented a late night levy.⁶

Further information on the levy is available in Home Office [guidance](#) (December 2012).

¹ Part 2 chapter 2 of the 2011 Act

² Regulations 4 & 5 and Schedules 1 and 2 of the [Late Night Levy \(Application and Administration\) Regulations 2012](#) (SI 2012/2730)

³ Regulation 8 of the [Late Night Levy \(Application and Administration\) Regulations 2012](#) (SI 2012/2730)

⁴ Ibid

⁵ Home Office, [Impact Assessment for the alcohol measures in the Police Reform and Social Responsibility Bill](#), November 2010, p21

⁶ Home Office, [Impact assessment on changes to the late night levy](#), September 2016, p1; the seven local authorities are: Newcastle City Council, Cheltenham, Islington, City of London, Nottingham, Chelmsford and Southampton

2. Deciding on a levy

The licensing authority should discuss the need for a levy with the chief officer of police and relevant PCC. The licensing authority will then decide whether to consult on a proposed levy. Home Office [guidance](#) (March 2015) explains what happens next:

(...) The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.

1.12 The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.

1.13 The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve.

1.14 If the full council approves the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities...⁷

Reductions

Licensing authorities have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme, or in receipt of small business rate relief and have a rateable value of less than £12,000.⁸

Exemptions

The levy applies to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority's area. Any such holder is liable to pay the levy, regardless of whether the holder's premises are actually operating during the period. However licensing authorities may consider that there are some types of premises that should not make a contribution towards 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.

⁷ Home Office, [Amended guidance on the late night levy](#), March 2015, paras 1.11-1.14

⁸ Regulation 5 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); and Home Office, [Amended guidance on the late night levy](#), paras 1.34-1.38

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1.24 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.⁹

The following categories of premises and schemes may be offered an exemption from paying the levy:

- premises with overnight accommodation
- theatres and cinemas
- bingo halls
- community amateur sports clubs
- community premises
- country village pubs
- Business Improvement Districts¹⁰

⁹ Home Office, [Amended guidance on the late night levy](#), paras 1.23-1.24

¹⁰ Regulation 4 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); see also Home Office, [Amended guidance on the late night levy](#) paras 1.25-1.33

3. Reforms to the levy (2017)

The Home Office's [Modern Crime Prevention Strategy](#) said that the levy would be improved "by making it more flexible for local areas, fairer to business and more transparent. At the same time, the Government will create a greater role for Police and Crime Commissioners, by giving them a right to request that local authorities consult on introducing a levy to contribute towards the cost of policing the evening and night time economy".¹¹

[Section 142](#) and [Schedule 18](#) of the *Policing and Crime Act 2017* will reform the levy. These are not yet in force. In summary, the Act's changes would:

- allow licensing authorities to target specific geographical locations (rather than, as now, the whole of the local authority area);
- extend the levy to include late night refreshment outlets;
- enable PCCs to request the licensing authority to propose introducing a levy; and
- require licensing authorities to publish information about how funds raised by the levy are spent so that those paying it are clearer about how it is being used¹²

When introducing the proposed changes in the House of Lords, Baroness Chisholm of Owlpen gave the following context:

(...) Licensing authorities, the police and the licensed trade feel that the levy in its current form is inflexible. Currently, licensing authorities must apply the levy to the whole licensing authority area, and businesses which are not in night-time economy areas feel they are being unfairly charged...The provision of late-night refreshment is defined in the Licensing Act 2003 as hot food and drink sold to the public between 11 pm and 5 am. Such premises are often linked to alcohol-fuelled crime and disorder; for example, fast-food shops are often premises at which late-night drinkers congregate.

PCCs have told us that they would like a formal role in relation to the levy, and we think this is appropriate as 70% of the revenue raised must go to them. The amendment will allow a PCC to request that a licensing authority formally propose a levy, thereby triggering a consultation on whether to implement one in its area. It will need to set out its reasons for doing so with reference to the cost of policing incurred as a result of the night-time economy...¹³

Further information is available in a Home Office [Impact Assessment](#) on reforming the levy.¹⁴

¹¹ Home Office, [Modern Crime Prevention Strategy](#), March 2016, p36

¹² Home Office, [Policing and Crime Bill: Explanatory Notes on Lords Amendments](#), Bill 118-EN 2016-17, 19 December 2016, para 86

¹³ [HL Deb 9 November 2016 cc1191-2](#)

¹⁴ Home Office, [Impact assessment on changes to the late night levy](#), September 2016

4. Lords Committee criticism of the levy (2017)

While the *Policing and Crime Bill 2016/17* was before Parliament, a House of Lords Committee was looking at the *Licensing Act 2003*. The Government's amendments on the levy were moved¹⁵ before the Committee's [report](#) was published on 4 April 2017. The report was critical of the levy:

The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. Yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose.¹⁶

The Committee said it was "disappointed" that the Government had decided to make changes to the levy before it had published its report:

The Chairman of our Committee wrote to the Leader of the House...asking for an assurance that the relevant provisions on the Late Night Levy would not be brought into force until after we had reported. We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not be implemented until the Government has considered and responded to the recommendations in this report.¹⁷

The report concluded that the levy had "failed to achieve its objectives and should be abolished". However it also recognised that the Government's amendments "may stand some chance of successfully reforming the levy":

(...) We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect.

503. If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities.¹⁸

¹⁵ [HL Deb 9 November 2016 cc1191-2](#)

¹⁶ House of Lords Select Committee on the Licensing Act 2003, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, 4 April 2017, para 487

¹⁷ *Ibid*, para 500-1

¹⁸ *Ibid*, paras 502-3

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