



BRIEFING PAPER

Number 7100, 22 March 2019

The late night levy

By John Woodhouse

Contents:

1. What is the late night levy?
2. Reforming the levy
3. Lords Committee criticism of the levy (2017)



Contents

Summary	3
1. What is the late night levy?	4
2. Reforming the levy	7
3. Lords Committee criticism of the levy (2017)	8

Summary

The *Police Reform and Social Responsibility Act 2011* gives licensing authorities the power to introduce a “late night levy” on premises licensed to sell alcohol in the authority’s area. The levy applies during a “late night supply period” (i.e. between midnight and 6am). The authority chooses the length of time within this period that the levy will apply. The levy must cover the whole of an authority’s area.

The net revenue raised goes towards the costs of policing the late-night economy. This 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.

The levy only applies in England and Wales.

Ten licensing authorities have a levy in place.

Further information is available in Home Office [guidance](#) (March 2015).

Reforming the levy

Section 142 and Schedule 18 of 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.

Section 142 and Schedule 18 are not yet in force.

Criticism of the levy

A House of Lords Select Committee [report](#) (April 2017) said that the levy in its current form had failed to achieve its objectives and should be abolished. However, it did recognise that the 2017 Act’s changes might “stand some chance of successfully reforming” it.

In its [response](#) (November 2017), the Government said that it would be commencing the provisions of the 2017 Act. However, it would not commence the measure allowing licensing authorities to charge the levy to late night refreshment premises until it had consulted on the appropriate level of the charge.

1. What is the late night levy?

The *Police Reform and Social Responsibility Act 2011* gives licensing authorities the power to introduce a “late night levy” on premises licensed to sell alcohol in the authority’s area.¹ The levy applies during a “late night supply period” (i.e. between midnight and 6am). The authority chooses the length of time within this period that the levy will apply. The levy must cover the whole of an authority’s area.

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 revenue raised goes towards the costs of policing the late-night economy. This 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.

Further information is available in Home Office [guidance](#) (March 2015).

Where has the levy been introduced?

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 ten authorities have a levy in place:

- Hackney
- Camden
- Tower Hamlets
- Newcastle

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

- Islington
- City of London
- Nottingham
- Chelmsford
- Southampton
- Liverpool.

Cheltenham Borough Council introduced a levy in 2014 but, after a consultation, scrapped it in 2017.⁶ The council had not received the income it had expected from the levy.⁷ The Association of Licensed Multiple Retailers commented on the decision:

Late night levies are indiscriminate and heap financial pressure onto venues that are already contributing financially to the success of their areas. The levy is blunt tool that penalises hardworking businesses, threatens stability and investment and is unlikely to effectively tackle any issues that a council may have. It is very encouraging to see the council sees sense and abandons a measure that is potentially very harmful to local businesses.⁸

The British Beer & Pub Association, said:

Small businesses like pubs contribute to the levy, but the funds collected are not reinvested to tackle the particular problems that these small businesses face. We will continue to oppose late night levies, campaigning against them wherever they are proposed.⁹

Southwark Council¹⁰ and Redbridge Council¹¹ are consulting on whether to introduce levies.

What has revenue been used for?

According to the Government, revenue from the levy has been used to fund the following:

(...) additional police officers and community protection officers, and projects designed to benefit those working and socialising in the night time economy, including a Club Host project aiming to reduce sexual harassment within clubs, first aid training for staff of licensed premises, defibrillators for town centres, taxi marshals and street cleaning.¹²

Deciding on a levy

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

(...) The consultation document will state its intention to introduce a levy, its proposed design (including the late night

⁶ ["Ground-breaking-move-means-Cheltenham-late-night-levy-will-be-canned"](#), *Morning Advertiser*, 28 February 2017

⁷ Ibid

⁸ Quoted in ["Cheltenham abandons Late Night Levy"](#), *Imbibe*, 28 February 2017

⁹ Ibid

¹⁰ Southwark Council website, [Late night levy](#) [accessed 22 March 2019]

¹¹ Redbridge Council website, [Late night levy](#) [accessed 22 March 2019]

¹² Home Office, [Government response to the report from the House of Lords Select Committee report on the Licensing Act 2003](#) (HL Paper 146 2016-17), Cm 9471, November 2017, p36

6 The late night levy

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...¹³

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 £12,000.¹⁴

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.

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.¹⁵

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

- premises with overnight accommodation
- theatres and cinemas

¹³ Home Office, [Guidance on the late night levy](#), Revised March 2015, paras 1.11-1.14

¹⁴ Regulation 5 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); and Home Office, [Guidance on the late night levy](#), paras 1.34-1.38

¹⁵ Home Office, [Guidance on the late night levy](#), paras 1.23-1.24

- bingo halls
- community amateur sports clubs
- community premises
- country village pubs
- Business Improvement Districts¹⁶

2. Reforming the levy

The Government's [Modern Crime Prevention Strategy](#) (March 2016) 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.¹⁷

[Section 142](#) and [Schedule 18](#) of the *Policing and Crime Act 2017* will make changes to the levy. These are not yet in force but 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 used¹⁸

When introducing the changes in the House of Lords, the Government said that "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

¹⁶ Regulation 4 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); see also Home Office, [Guidance on the late night levy](#), paras 1.25-1.33

¹⁷ Home Office, [Modern Crime Prevention Strategy](#), March 2016, p36

¹⁸ Home Office, [Policing and Crime Bill: Explanatory Notes on Lords Amendments](#), Bill 118-EN 2016-17, 19 December 2016, para 86

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...¹⁹

Further background is available in an [Impact Assessment](#) (Home Office, September 2016).

3. Lords Committee criticism of the levy (2017)

While the *Policing and Crime Bill 2016/17* was before Parliament, a House of Lords Committee was scrutinising the *Licensing Act 2003*. The Government's amendments on the levy were moved²⁰ 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.²¹

The Committee was "disappointed" that the Government had proposed changes to the levy before it had published its report.²² However, the Chair of the Committee had received assurances from Ministers that the changes would not be implemented until the Government had considered the Committee's report.²³

The Committee concluded that, on balance, the levy in its current form had "failed to achieve its objectives and should be abolished". It recommended that legislation should be introduced so that the levy would cease to have effect after two years - unless the Government made an order, after consultation, providing that the Part 2 Chapter 2 of the *Police Reform and Social Responsibility Act 2011* should continue to have effect.²⁴

The Committee did, however, recognise that the *Policing and Crime Act 2017* "may stand some chance of successfully reforming the levy".²⁵

If the Government decided to retain the levy, the Committee recommended that the current 70/30 split of levy revenue should be

¹⁹ Baroness Chisholm of Owlpen at [HL Deb 9 November 2016 cc1191-2](#)

²⁰ [HL Deb 9 November 2016 cc1191-2](#)

²¹ 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

²² *Ibid*, para 502

²³ *Ibid*, para 501

²⁴ *Ibid*, para 502

²⁵ *Ibid*, para 502

abolished and that funds should be divided equally between the police and licensing authorities.²⁶

Government response (November 2017)

The Government's [response](#) to the Committee's report was published in November 2017. On the levy, the Government said that:

- it would commence the provisions of the 2017 Act (see section 2 of this paper). However, it would not commence the measure allowing licensing authorities to charge the levy to late night refreshment premises until it had consulted on the appropriate level of the charge;
- it had no intention to introduce a sunset clause to repeal the legislation after two years. The legislation would be subject to a post-legislative review five years after Royal Assent;
- the 70/30 split of levy income was appropriate and there were no plans to change it.²⁷

²⁶ Ibid, para 503

²⁷ Home Office, [Government response to the report from the House of Lords Select Committee report on the Licensing Act 2003](#) (HL Paper 146 2016-17), Cm 9471, November 2017, pp36-7

About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcenquiries@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).