

Item No. 6.	Classification: Open	Date: 23 January 2019	Meeting Name: Licensing Committee
Report title:		London Borough of Southwark Late Night Levy Consultation	
Ward(s) or groups affected:		All Wards	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing committee recommends that officers initiate a public and statutory consultation, further to correspondence received from Mayor's Office for Policing and Crime (MOPAC).

BACKGROUND INFORMATION

2. The late night levy (LNL) is a power that enables licensing authorities to charge a levy on persons who operate premises that sell alcohol between 00:00 (midnight) and 06:00.

3. An extensive report providing details of both the potential implementation of a levy and the financial impact on businesses and revenue for the council has already been written and considered by members at a full committee hearing. A full copy of the report and associated appendices is available at:

<http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=171&MIId=6160&Ver=4>

4. Southwark licensing committee met on 7 November 2018 to consider running the consultation on the implementation of a late night levy in the borough. At the meeting, members were receptive to the potential of a levy and unanimously passed a resolution, stating:

“The committee agrees to go ahead with the late night levy consultation on the understanding that written correspondence from MOPAC agreeing that 100% of monies gained will come to the council, will be in place by 07 January 2019.”

5. At the time that resolution was passed, the licensing authority was awaiting a written response from the Mayor's Office for Policing and Crime (MOPAC) in relation to the distribution of funds earned via the levy. That response was received on 14 December 2019. A copy of that correspondence is available in Appendix A.
6. The response from MOPAC is brief. MOPAC, as a consultee, will be invited to make further contributions as part of the statutory consultation process. Representatives of MOPAC have given anecdotal verbal advice that the council should consult on the potential implementation of the levy and then return to them to seek written authorisation that the council use existing partnership arrangements with the police to apply for 100% of the revenue raised to tackle alcohol-related crime and disorder in the borough. However, this is not a guarantee that MOPAC will agree to this.
7. It is possible that following the consultation, MOPAC may refuse Southwark's request

for 100% of the monies raised. If this is the eventuality, the direct income to the local authority (LA) is reduced to 30%. If the outcome of the consultation demonstrates that a levy should be introduced, the council can, at that time, consider whether or not to implement a levy once the decision of MOPAC is known with certainty.

8. The following tables show the potential change to the expected monies from the levy, should MOPAC demand 70% of the Levy go into the central pot of the Metropolitan Police Service.

Band	No. of LNL Premises in Southwark	Potential LNL Fees	Admin fee 1st year	Net Total	Police 70%	LA 30%
A	40	£11,960	£1,680	£10,280	£7,196	£3,084
B	224	£172,032	£9,408	£162,624	£113,837	£48,787
C	97	£122,123	£4,074	£118,049	£82,634	£35,415
D	26	£35,490	£1,092	£34,398	£24,079	£10,319
E	52	£77,636	£2,184	£75,452	£52,816	£22,636
Total	439	£419,241	£18,438	£400,803	£280,562	£120,241

Table 1 – Potential LNL Fees first year – Includes the cost of consulting, setting up the Levy and collection.

Band	No. of LNL Premises in Southwark	Potential LNL Fees	Admin fee 2nd year	Net Total	Police 70%	LA 30%
A	40	£11,960	£480	£11,480	£8,036	£3,444
B	224	£172,032	£2,688	£169,344	£118,541	£50,803
C	97	£122,123	£1,164	£120,959	£84,671	£36,288
D	26	£35,490	£312	£35,178	£24,625	£10,553
E	52	£77,636	£624	£77,012	£53,908	£23,104
Total	439	£419,241	£5,268	£413,973	£289,781	£124,192

Table 2 – Potential LNL Fees second year – admin costs are checking and collection of Levy fees.

First Year	Total	Admin fee	Net Total	Police 70%	LA 30%
Reduction in LNL due to 30% business improvement districts (BID) discount	£46,702.20		£46,235		

First Year	Total	Admin fee	Net Total	Police 70%	LA 30%
Reduction in LNL due to small business reduction discount	£8,422.80		£8,339		
Reduction in LNL if all discounts applied	£55,125.00		£54,574		
Potential maximum revenue	£419,241.00	£18,438	£400,803	£280,562	£120,241
Potential revenue if all discounts applied	£364,116.00	£18,438	£345,678	£241,975	£103,703

Table 3 – Impact of discretionary discounts on total LNL collected first year

Second Year	Total	Admin fee	Net Total	Police 70%	LA 30%
Reduction in LNL due to 30% BID discount	£46,702.20		£46,235		
Reduction in LNL due to small business reduction discount	£8,422.80		£8,339		
Reduction in LNL if all discounts applied	£55,125.00		£54,574		
Potential maximum revenue	£419,241.00	£5,268	£413,973	£289,781	£124,192
Potential revenue if all discounts applied	£364,116.00	£5,268	£358,848	£251,194	£107,654

Table 4 – Impact of discretionary discounts on total LNL collected second year

9. The consultation plan and associated questions have been updated. A copy is available in Appendix B. Most notably, a question has been added that seeks an opinion on how any potential monies gained should be split between the Council and MOPAC.
10. The time line for the consultation has now also been altered. The essential dates are as follows:
 - The Notice of Proposal will be published the following week (four weeks prior to the consultation) w/c 28 January 2019. A copy of the updated draft Notice is available in Appendix C.
 - The delayed consultation will now run from 25 February for 12 weeks to 19 May 2019.
 - The public meeting that had been planned for 22 January 2019 has been moved to 19 March 2019.
 - The consultation results will be compiled in a report which again needs to be with constitutional team by 11 June 2019.

- The report will be presented to members of the licensing committee on 25 June 2019 (the current committee date of 10 June 2019 has been moved back by two weeks to accommodate).
- The report for full council assembly will be due with the constitutional team on 4 July, ready for presentation by the chair of licensing on 17 July.
- There are four weeks to publish our second Notice, advising of implementation (if the levy it is agreed by council assembly).
- The levy will still be on target to commence on 1 September 2019.

Resource implications

11. There are no additional resource implications arising from this report at this stage. The late night levy is designed to be self financing, with council administration and collection expenses deducted from gross receipts before the remaining funds are allocated.

Financial implications

12. The late night levy (LNL) is a power that enables licensing authorities to charge a levy on persons who operate premises that sell alcohol between 00:00 (midnight) and 06:00. The amount payable is determined by the rateable value of the premises and is set nationally.
13. The potential maximum income that might be generated based on the number of relevant premises in the different rateable value bands is £419,000. All income raised by the levy must be spent on activities which benefit the night time economy.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

14. The Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) allows the council to raise revenue on alcohol licensed premises by way of a late night levy (the “LNL”). The powers to introduce the LNL come specifically from within the 2011 Act and not by way of an amendment to the Licensing Act 2003.
15. In considering whether to introduce a LNL, the council must first consider whether it is worth having the levy having regard to the current cost of tackling the problems of crime and disorder that are caused by the night time economy from those premises that are licensed for alcohol sales between 00:00 midnight and 06:00.
16. Any LNL imposed must apply to the whole borough and will only apply to those who hold a licence for the hours that the LNL will operate from. Local authorities do have a discretion as to the hours when the LNL can start and finish, although it must be within those hours specified above.
17. The 2011 Act does not prohibit the local authority and police agreeing a separate agreement as to the use of the funds raised for the police, which is detailed in paragraph 36 of this report.
18. Before the LNL can be introduced the council must comply with procedural

requirements namely:

- consult with the police and those licensees that will be affected by the proposed levy
- placing a notice of the relevant details for the proposed levy on the website and in the local newspaper with a copy of the notice also being sent to police and affected licensees

19. The consultation must:

- Be at a time when proposals are still at a formative stage;
- Have sufficient reasons for the proposal to enable intelligent consideration and response;
- Give adequate time for such consideration and response; and
- The product of the consultation must be conscientiously taken into account in finalising any proposals.

20. Following the consultation should council assembly decide to adopting the LNL this must be approved by full council pursuant to Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended in 2013.

Strategic Director of Finance and Governance

21. The strategic director of finance and governance notes the recommendation that the licensing committee recommend that officers initiate a public and statutory consultation on introducing a late night levy.

22. The strategic director also notes the potential revenue from the introduction of a late night levy as set out in paragraph 8 and the options for spending the LNL revenues in partnership with the Office of the Deputy Mayor for Policing and Crime as detailed in paragraphs 5 to 7.

23. Officer time to effect recommendations will be contained within existing budgeted revenue resources.

Other officers

24. The report has been edited, amended and cleared by a number of people, including Ian Smith, Strategic Director, Environment and Leisure and Councillor Renata Hamvas, the current chair of the licensing committee.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office revised guidance to the Act Secondary Regulations Southwark statement of licensing Policy Case file	Southwark Licensing, C/O Community Safety & Enforcement, 160 Tooley Street, London SE1 2QH	Kirty Read Tel: 020 7525 5748

APPENDICES

No.	Title
Appendix A	Letter from Mayor's Office for Policing and Crime (MOPAC)
Appendix B	Updated Consultation Plan and associated questions
Appendix C	Updated Notice of Proposal

AUDIT TRAIL

Lead Officer	Ian Smith, Strategic Director of Environment and Leisure	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	10 January 2019	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	10 January 2019	