

Item No. 6.	Classification: Open	Date: 25 June 2019	Meeting Name: Licensing Committee
Report title:		London Borough of Southwark – Late Night Levy Consultation	
Ward(s) or groups affected:		All wards	
From:		Director Environment	

RECOMMENDATION

1. That the licensing committee considers the results of the public and statutory consultation conducted on the possible implementation of a late night levy (LNL) within the Borough and makes recommendations on the following:
 - a) That council assembly recommend approval or otherwise of a late night levy across the whole borough;
 - b) That if the decision is to adopt the levy, the commencement date should be 1 September 2019;
 - c) Recommend if 30% reductions are to be applied, to whom and agree which premises may be exempted. See Appendix A which gives further details that the committee could consider for reductions or exemptions.

BACKGROUND INFORMATION

2. Under the Police Reform and Social Responsibility Act 2011, Licensing Authorities can charge Late Night Levy (LNL) on persons who operate premises that sell alcohol between 00:00 (midnight) and 06:00.
3. Should the local authority decide to proceed with the LNL, it is required to use its portion of the levy on activities, which must be related to mitigating the impact of the supply of alcohol and associated activity, within the specified hours, namely the:
 - Reduction or prevention of crime and disorder,
 - Promotion of public safety,
 - Reduction or prevention of public nuisance,
 - Cleaning of any relevant highway or relevant land in its area.
4. Before introducing a LNL the authority must consider the desirability of introducing the scheme and must be able to demonstrate that levels of crime and disorder exist or will rise from licensed premises selling alcohol during the LNL hours.
5. Crime data has been mapped and reveals hotspots during the night time economy. Therefore the principal of 'polluter pays' demonstrates that premises should bear the cost of managing that environment. Current service demand against available financial resource could lead to a diminishing service delivery.

6. Before the consultation took place, the council confirmed with the Borough Commander of Lambeth and Southwark that the police considered it to be appropriate to introduce the levy in Southwark.
7. Under the 2011 Act the funds raised from the LNL must be split between the police and the council. However, the levy in its entirety may be combined and administered by a joint administrator under the crime partnership tasking team.
8. Under Home Office guidance issued in March 2015 it is recommended that local authorities use existing partnership arrangements with the police to apply for 100% of the revenue raised with a minimum of 70% of the levy going to police. The police have agreed to this approach but the Mayor's Office for Policing and Crime (MOPAC) have yet to confirm their agreement. MOPAC have been asked to confirm their agreement to this administrative arrangement.
9. The council currently funds a night time economy team (NTET) from its baseline budget. This consists of police and council officers who work jointly to visit and inspect licensed premises and to deal with incidents and complaints arising from licensed premises operating within the night time economy. The cost of this team is rising to approximately £298,500 for the Police and £40,000 for council officers, per annum.
10. A LNL would be used to fund the partnership work of the NTET (and its associated administration). Any surplus can be used to fund other initiatives that work towards providing a safer, supported late night environment in Southwark.
11. The spending of any surplus would be administered by a board made up of representatives from the council, the police and other relevant interested parties (e.g. residents associations and representatives from the night time economy industry, such as a representative from a Southwark Business Improvement District).
12. The LNL is payable in addition to the annual maintenance fee for the premises licence. LNL revenue raised by Southwark must be used to reduce or prevent late night alcohol-related crime and disorder, and, having regard to the late night supply of alcohol, for services connected to the management of public safety, public nuisance and street cleaning.
13. The Policing and Crime Act 2017 schedule 18 adds a legal provision for;
 - The LNL to apply across the whole or any part of the Borough;
 - Multiple LNL areas, each of which may have different late night supply periods;
 - A Police power to require Local Authorities to consider implementation of a LNL.

KEY ISSUES FOR CONSIDERATION

14. The Late Night Supply Period (LNSP) is set by the licensing authority and may include any consecutive hours between 00:00 (midnight) and 06:00. The LNSP must be the same every day of the week.
15. Holders of premises licenses that license the supply of alcohol during the LNSP

are liable to pay the LNL, whether or not the licence is actually used to supply alcohol during the LNSP:

- A LNL may apply to the whole of the Borough, or to any part of it;
 - All premises licensed for the supply of alcohol in the LNL area are included for both on and off sales;
 - The LNL includes boats and mobile bars where these are authorised under a premises licence;
 - Temporary event notice ('TENS') authorisations are not included;
 - The LNL amount is set nationally and depends on the non-domestic rateable value ('NDRV') band of the licensed premises.
16. The NDRV bands, and the LNL amount payable by holders in respect of licensed premises in these bands, are set out in Appendix B.
17. Members are also asked to consider whether the authority needs to apply any exemptions or discounts to the LNL and how it will apportion net levy revenue between the police and the authority.
18. The authority needs to consider whether the introduction of a Borough-wide levy is proportionate. Whilst part-coverage has been considered, the LNL will apply to the whole of the borough otherwise firstly, it would not prove economic and secondly, dissatisfaction from different premises sponsoring unpaying areas would lead to tension.

The Mayor's Office for Policing and Crime

19. It is possible that MOPAC may refuse Southwark's request for 100% of the monies raised. Members may wish consider whether or not to implement a levy once the decision of MOPAC is known with certainty. If that assurance is not provided, the Council is unlikely to proceed.

Maps

20. Appended are four maps in Appendix C:
- **Map 1:** Maps of premises that would be affected by the LNL and those that would be unaffected. Existing Cumulative Impact Zones (CIZs) within the Borough are highlighted;
 - **Map 2:** Map showing all 439 premises within the Borough that may be affected by the LNL. Again, the numbers of premises within existing CIZs are highlighted;
 - **Map 3:** Map depicting the location of premises receiving Small Business Rate Relief which may potentially benefit from a 30% reduction in LNL fees;
 - **Map 4:** Map showing Southwark BIDs and the premises that would be affected by the LNL.

Potential reductions in maximum revenue

21. The Act allows premises with late night authorisations to which the LNL would

apply, to reduce their licensed hours by way of a free minor variation application, so that the LNL will not apply to their premises. The number of premises likely to do this is uncertain, but it is likely that a number of premises will take up this option, thus reducing the actual levy raised; therefore income is likely to be lower than the potential maximum illustrated above.

22. The numbers of premises in Southwark, open after midnight, in each NDRV Band are in the table below.

Band	No. of LNL Premises in Southwark	Potential LNL Fees
A	40	£11,960
B	224	£172,032
C	97	£122,123
D	26	£35,490
E	52	£77,636
Total	439	£419,241

23. Should MOPAC demand 70% of the Levy go into the central fund for the Metropolitan Police, the potential change to the expected monies from the Levy are in Appendix D.

Variations to the late night levy charge

24. The licensing authority may decide to give reductions to eligible categories of premises, or to exempt them altogether. In BID areas and/or in premises covered by a best practice scheme (for which there are none currently in Southwark) where there an existing scheme in place to promote the reduction or prevention of late night disorder, a legally set discount of 30% may be applied.
25. Appendix E shows the numbers of premises in Southwark's BID areas. Application of this discount could reduce the potential revenue by £46,702.20. Members will need to make a recommendation to council assembly as to whether or not any reductions will be offered (see Appendix A).
26. Previously, the licensing authority had considered making a recommendation that a 30% reduction be offered to premise within a BID areas. However, throughout the consultation, it has become clear that payments made to existing BIDs do not cover policing of the late night economy. Analysing the results of the consultation survey, the majority of responders support the levy and believe that no reductions in fees should be offered.
27. If the council were minded to offer a reduction, the licensing authority would ask members to consider a 30% reduction being given to on-licensed premises who have a NDRV of £12,000 or less and who are in receipt of small business rate relief.
28. Exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012. These are set out below :
- Premises with overnight accommodation that serve alcohol to their residents for consumption on the premises only

- Theatres that serve alcohol to ticket holders, participants in the production and invited guests to a private function only
 - Cinemas that serve alcohol to ticket holders, and invited guests to a private function only
 - Bingo halls licensed under the Gambling Act where live bingo is the primary function
 - Registered community amateur sports clubs
 - Community premises that have successfully applied for the replacement of the mandatory 'designated premises supervisor' license condition
 - Businesses participating in a qualifying Business Improvement District where there an existing BID levy is to promote the reduction or prevention of late night disorder (there are none within Southwark)
 - Premises that supply alcohol in the LNSP on New Year's Day only
29. Members will need to make a recommendation to council assembly as to which, if any premises would be exempt from the levy. Officers have put consideration into exemptions and have made recommendations as guidance. Appendix F shows which premises the licensing authority advise should be exempt from the LNL.

Options for spending the LNL

30. The office of the Deputy Mayor for Policing and Crime recently reported on arrangements with local authorities on joint spending of LNL revenues, setting out the basis on which these arrangements may be approved. The options for spending will be at the discretion of a board.
31. The London Borough of Islington has a good practice example where they secured commitment for the LNL funds allotted to the police to be committed within the borough and to be pooled with the council's share. A reference board has been formed with police, local authority, members and trade representation. The board reviews the allocation of the LNL, as well as having responsibility of the small surplus proportion of the revenue for project funding in the next year.
32. Other local authorities have spent contributions from LNL receipts on:
- Additional policing or private security
 - Street marshals
 - A 'departure lounge' is a temporary venue for people dispersing from a late night economy area, giving information and assistance
 - Town link radio systems
 - 'Uri-lifts' (pop-up urinals for use late at night only)
 - Taxi marshalls
 - Street cleaning
 - Enforcement (e.g Night time enforcement Officers)
 - Personal Safety initiatives
 - Health Care Facilities
 - Financial support to assist schemes that promote improvement management of licensed premises, such as Best Bar None
33. Section 135 of the Police Reform and Social Responsibility Act 2011 has been amended by the Policing and Crime Act 2017 in that receipts from a LNL that includes late night refreshment premises can also be spent on additional street

cleaning, where there is evidence of additional littering near takeaway food premises open late at night. Late night refreshment premises are not yet liable to the LNL; we await a commencement date for this.

Policy implications

34. The proposal to introduce the LNL supports the aim of Southwark's licensing policy, which is to uphold the licensing objectives by creating further opportunities to reduce crime and disorder, public nuisance and the public safety risks that are created by the supply of alcohol and late night refreshment in the late night economy.

Resource implications

35. 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

36. 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.
37. 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.
38. However as noted in paragraphs 24 to 26 of this report the implementation of exemptions or reductions to the LNL will decrease the potential maximum income the levy could generate. Application of discounts in Southwark BID areas could reduce income by £46,700, whereas a 30% reduction to on-licensed premises who have a NDRV of £12,000 or less and in receipt of small business rate relief could result in a reduction of £8,400. Other variations based on the outcome of recommendations in this report would require calculation to ascertain their impact on revenues.
39. The manner of the implementation of the LNL is dependent on the decision of MOPAC on whether to allow Southwark to keep 100% of the net revenue raised. If this is reduced to 30% then a pooling arrangement of funds maybe possible, however specific details of how this would work in Southwark and its impact on options akin to those in paragraphs 31 above will need to be established.

Consultation

40. Under the Police Reform and Social Responsibility Act 2011, the local authority is required to undertake a public and statutory consultation. The consultation ran from 25 February for a period of 12 weeks to 19 May 2019.
41. The consultation was introduced by email and circular letter and sent to:

- All Premises Licence holders
- All Personal Alcohol Licence holders
- Representatives of businesses and residents
- Amenity groups
- Community associations
- Ethnic group associations
- Faith groups
- Traders' associations
- People and parties who responded to previous consultations on the policy statement and the cumulative impact policy areas
- Neighbouring licensing authorities
- Responsible authorities.

42. The consultation was displayed on the council web site and was conducted via an online questionnaire. Links to previous reports to the licensing committee on taking the decision to initiate the consultation were appended. The consultation was advertised in the local press and council buildings. Representative of the licensing authority attended meetings with Southwark's Business Improvement Districts and local PubWatches.

Consultation results

43. The consultation consisted of 8 questions on the potential implementation of the levy (the first question was to establish who they are). The questions and results are in Appendix G.

44. 217 individual online responses were received.

45. The groups answering the online consultation can be categorised as follows:

A licensed business with a licence potentially affected by the LNL	44
Any other licensed business	29
A non-licensed business	3
A member of the public	111
Other	38

46. Some consultees have ticked multiple boxes stating that they are both a business and a member of the public, thus the above figures add to 225.

47. Respondents were split over the introduction of the Levy, but the majority are in favour of its implementation. When asked if the Levy was appropriate to fund the work of the Night Time Economy Team the following percentages came out:

Agree/strongly agree	50.23
Disagree/strongly disagree	42.39

48. Respondents were invited to submit comments on each question. The comments and officer responses are detailed in Appendix H. Members should note that responses have been presented un-amended in their original form ([sic]).

49. Written responses were also received from:

- Better Bankside BID
- Team London Bridge BID
- WeAreWaterloo BID
- Southwark Safe Business Crime Reduction Partnership
- Amy Lane, the Night Czar
- Thomas and Thomas Solicitors
- Gavin Blackburn, Southwark Planning

50. These Responses and officer comments are available in Appendix I along with copies of their original correspondence.

Themes from the Responses

51. The following themes from the responses of those agreeing with the introduction of the levy are as follows:

- The nature of Southwark's nightlife is continually changing
- Licensed premises that add to late night anti-social behaviour should be made to pay to regulate it
- The joint relationship between the police and council enforcement is essential
- 100% of the money from the LNL should come to the council with money being spent on local policing
- No discounts should be given

52. The following themes were apparent from those respondents disagreeing with the introduction of the LNL:

- Licensed premises within the borough have already experienced increases in business rates and rents – this will add an additional expense.
- Compliant businesses will be paying to enforce non-compliant premises
- The joint relationship between the police and council enforcement is essential
- Some premises will likely apply to vary their premises licences to reduce their hours, which may lead to fewer late-night venues
- Premises in BID areas should be exempt from the LNL

53. Based on the results of the consultation, recommendations to the licensing committee from the licensing authority are listed in the earlier Appendix A.

54. Some objectors to the introduction of a Levy have quoted recommendations from the House of Lords that they should not be adopted. This is not consistent with the government's approach. For members' information, the latest House of Commons briefing paper on late night levies is available in Appendix J.

Community impact statement

55. The consultation set out the council's aims at introducing a LNL and how revenue gained will be spent. The expenditure of the income will have a positive impact on the wider community by reducing the potential for alcohol-related crime and anti-social behaviour. The consultation allowed a wide variety of

stakeholders, including residents and local businesses, to highlight how the LNL may affect them.

56. Furthermore, Southwark's statement of licensing policy sets out to achieve a necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the Borough is protected and enhanced through the licensing system.
57. Central to this, is a licensing process which aims to be inclusive and ensures that local community concerns are understood, debated and resolved. This is supported by offering broad support to licensees, through the range of involved authorities, to establish best practice management, and by a strong directed enforcement resource.

Equality analysis in relation to the consultation

58. Alcohol-related crime and anti-social behavior has the potential to affect all groups of people. It is acknowledged that the cost of the levy will primarily affect owners of businesses that provide alcohol during the late-night economy. The additional revenue raised however, has the potential to assist residents from all communities.
59. Southwark has a wide range of licensed premises, many which contribute to the late-night economy. As the levy would be applied equally to all premises selling alcohol after midnight, there is no data to suggest that this would negatively impact any community group in particular.
60. An Equality analysis was conducted in August 2018 regarding the consultation. Since the consultation has been completed, a detailed, updated equality analysis is available in Appendix K.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

61. 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.
62. 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 midnight and 6.00 am.
63. Any LNL imposed can 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 discretion as to the hours when the LNL can start and finish, although it must be within those hours specified above.
64. 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.

65. 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
66. 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.
67. 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

68. This report is requesting the licensing committee to consider the results of the public and statutory consultation conducted on the implementation of a late night levy (LNL) and for council assembly to approve or otherwise, the adoption of the levy.
69. The strategic director of finance and governance notes the potential revenue from the introduction of a late night levy and the options for spending the LNL revenues in partnership with the Office of the Deputy Mayor for Policing and Crime contained within the main body of the report.
70. Officer time to effect recommendations will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Police Reform and Social Responsibility Act	The Licensing Service, C/O 160 Tooley Street, London, SE1	Kirty Read Phone number: 020 7525 5748
Licensing Act 2003 Home Office revised guidance to the Act		
Amended Guidance on the Late Night Levy, Home Office, March 2015		

<p>House of Lords Select Committee on the Licensing Act 2003 , 'The Licensing Act 2003: post-legislative scrutiny, November 2017</p> <p>House of Commons Library, Briefing Paper, Late Night Levy, March 2019 Secondary Regulations: The Late Night Levy (Application and Administration) Regulations 2012</p> <p>The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012</p> <p>Southwark's Statement of Licensing Licensing Committee Report and minutes – 7 November 2018</p> <p>Policy Case file</p>		
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APPENDICES

No.	Title
Appendix A	Recommendations of the licensing authority
Appendix B	Non-domestic rateable value late night levy amount payable by holders
Appendix C	Maps of premises affected by the LNL
Appendix D	Potential changes to the expected monies from the Levy if MOPAC demand 70%
Appendix E	Premises in Southwark's BID areas
Appendix F	Premises the licensing authority advise should be exempt from the levy
Appendix G	Consultation questions and results
Appendix H	Consultee comments and officer responses from online consultation
Appendix I	Written consultee comments and officer responses and copies of the original correspondence
Appendix J	House of Lords Briefing Paper: The Late Night Levy, March 2019
Appendix K	Equality analysis

AUDIT TRAIL

Lead Officer	Mick Lucas, Director of Environment	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	11 June 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	Yes	Yes
Date final report sent to Constitutional Team	12 June 2019	