



COUNCIL

27TH FEBRUARY 2014

AGENDA ITEM (14)

ADOPTION OF LATE NIGHT LEVY AND/OR EARLY MORNING RESTRICTION ORDER POWERS

Accountable Members	Licensing Committee
Accountable Officer	Amanda Morgan Commercial Manager 01285 623000 amanda.morgan@cotswold.gov.uk

Purpose of Report	To consider a recommendation from the Licensing Committee in relation to the Late Night Levy or Early Morning Restriction Order powers for licensed premises
Recommendations	That the Late Night Levy and Early Morning Restriction Order powers be not adopted at this time.
Reason(s) for Recommendation(s)	Relatively few anti-social behaviour issues within the Cotswold District arise from the operation of licensed premises late at night. The recommendation reflects a review of the possible benefit of these powers to the communities and businesses within the District

Ward(s) Affected	All
Key Decision	Yes
Recommendation to Council	Yes - from the Licensing Committee

Financial Implications	There are no such implications associated directly with the recommended action. If the Council chooses to adopt these powers in the future, there will be limited financial benefit to CDC.
Legal and Human Rights Implications	None
Environmental and Sustainability Implications	None
Human Resource Implications	None
Key Risks	None
Equalities Analysis	No effect on the protected groups identified

Related Decisions	Licensing Committee - 11 th March 2013 - Minute L.32 Licensing Committee - 4 th February 2014 - Minute L.19
Background Documents	Police Reform and Social Responsibility Act 2011 http://www.legislation.gov.uk/ukpga/2011/13/pdfs/ukpga_20110013_en.pdf The Late Night Levy (Application and Administration) Regulations 2012 http://www.legislation.gov.uk/ukdsi/2012/9780111526309 The Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012 http://www.legislation.gov.uk/uksi/2012/2551/pdfs/uksi_20122551_en.pdf
Appendices	None

Performance Management Follow Up	To undertake a review in two years' time as to whether the Late Night Levy or Early Morning Restriction Order should be implemented and to submit a further report to the Licensing Committee for consideration.
---	--

Background Information	
1. <u>The Police Reform and Social Responsibility Act 2011</u>	
1.1 In early 2012, two new powers were introduced under the provisions of the Police Reform and Social Responsibility Act 2011 to assist with licensing control. They were Early Morning Restriction Orders (EMROs) and the Late Night Levy (LNL).	
1.2 EMROs can be used to restrict the sale of alcohol in all or part of a local authority's area between the hours of midnight and 6.00 a.m. on any day as a means of addressing recurrent alcohol-related problems which are not directly attributable to specific premises.	
1.3 The LNL is a charge on persons who are licensed to sell alcohol late at night in the local authority's area, and is intended as a means of raising a contribution towards the cost of policing the late night economy.	
1.4 EMROs and the LNL are discretionary powers which are available to Licensing Authorities to deal with problems arising from late night drinking. The Government states that they are intended to 'empower local communities to act to achieve a more viable night-time economy'.	
2. <u>Experience of Other Local Authorities</u>	
2.1 <u>Early Morning Restriction Orders</u>	
2.1.1 To date, no local authority has adopted the EMRO powers. Blackpool Council has recently considered adoption of an EMRO to prevent alcohol being served between 3.00 a.m. and 6.00 a.m. in a particular area of Blackpool town centre.	
2.1.2 At its Meeting on 7 th February 2014, Blackpool Council's Licensing Committee voted unanimously to recommend that an EMRO should not be adopted and that a multi-agency Night Time Economy Working Group be formed.	

2.2 The Late Night Levy

2.2.1 To date, only two Councils, Newcastle City Council and Cheltenham Borough Council, have adopted the LNL powers.

2.2.2 Newcastle City Council was the first local authority to adopt the LNL, which was implemented on 1st November 2012. The City Council proposes to use the LNL to help manage the night time economy and to reduce alcohol-related crime and disorder in the city centre. The City Council has stated that 'the objective is not to restrict the extent of the late night economy but to ensure a contribution towards the costs of it. Some of the activities on which the LNL might be spent are taxi marshalling, CCTV improvements, street pastors, street cleaning, enforcement and personal safety initiatives, and increased toilet facilities, the actual spend being agreed by all partners for the benefit of the city.'

2.2.3 Cheltenham Borough Council agreed to adopt the LNL powers on 16th December 2013, with an implementation date of 1st April 2014. The LNL will be payable by premises that are licensed to sell alcohol between 00.01 hours and 6.00 a.m.

2.2.4 Cheltenham Borough Council has agreed a 30% reduction in the annual LNL where licensed premises are also members of business-led best practice schemes providing the schemes comply with the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

2.2.5 Cheltenham Borough Council aims to use the LNL to fund initiatives aimed at tackling alcohol-related crime and disorder within its area. It is seeking agreement with the Police and Crime Commissioner to develop a single programme delivered in partnership between the Council and the Police.

2.2.6 Both Newcastle City Council and Cheltenham Borough Council have significant night time economies.

3. Consideration by the Licensing Committee

The Licensing Committee considered the adoption of EMROs and the LNL for licensed premises at its Meeting on 4th February 2014. The Committee's recommendation to the Council is that the powers be not adopted at this time.

4. Gloucestershire Constabulary - Local Policing Team for the Cotswolds Local Policing Area

4.1 The local Inspector was consulted. His response is set out below and is a personal one, based on his experience of policing in the Cotswolds, and it should not be considered the definitive view of the Gloucestershire Constabulary:-

'As you are aware, over 130 premises in the Cotswolds have licences enabling them to operate late into the night. It is true that many of them do not always operate as late as they can according to the licence, and this is mainly due to economic reasons.

What this creates is the ability for premises which normally operate in and around the old licensing hours to decide to operate much later, without any recourse either to you as the licensing authority, or the Constabulary. This can create resourcing issues for the Constabulary in the Cotswolds as my resource plans are based on 'normal' hours and numbers. Any unexpected late night opening (within the current premises licence) can cause problems that significantly stretch these resources. The imposition of the LNL would not impact on licensed premises etc. requesting Temporary Event Notices. In fact, it is very helpful as it provides notice for me to arrange appropriate resources, if required.

I accept that any financial benefit to operating the LNL will be very small and would not be a strong argument for any LNL in my view. What the imposition of the LNL will do is focus the minds of the 130 licensed premises as to what their opening hours are (or should be) and

enable both the Constabulary and the Council to target our resources more effectively at mitigating the issues created by late night drinking. Those premises who would be subject to the LNL, and choose to continue to operate late into the night would, in my view, be much fewer than the current 130. This will reduce the numbers down to those whose business models rely more heavily on late night drinking. Any revenues raised from the LNL can then be more effectively targeted at these remaining premises and continue to improve the safety and security of those attending them.

It is true that anti-social behaviour and violent alcohol-related crime in the Cotswolds is low. This should not be a reason to dismiss the LNL as I would like to use all the options at our disposal to maintain and manage the current position and sustain it for the future and continue to improve it to make nights even safer and more enjoyable.

In conclusion, I would fully support the LNL as I think it will enable us to more effectively manage the night time economy without detriment to other sections of the community. I would suggest the relevant time should be 00.01 hours so as to mitigate the financial impact on the majority of the pubs etc. in the Cotswolds.'

4.2 The views of the Police and Crime Commissioner will be reported at the Council Meeting.

5. Cotswold District Council's Licensing Team

5.1 The view of the Council's Licensing Team is that existing powers should be used to deal with individual licensed premises under the provisions of the Licensing Act 2003, or through nuisance powers under the provisions of the Environmental Protection Act 1990.

5.2 It is not considered appropriate to introduce a LNL across the entire District, nor to identify areas and impose EMROs. The District does not have a significant night time economy, and anti-social behaviour associated with licensed premises is low.

5.3 The Licensing Team will continue to ensure that resources are focused on:-

- (i) working closely with the Community Safety Officer and Gloucestershire Constabulary to promote a safe night time economy; and
- (ii) taking appropriate enforcement action against any licensed premises that fail to meet any of the Council's Licensing Objectives.

(END)