

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	7 th November 2016
Report of:	Miss Kim Evans – Licensing Team Leader
Subject/Title:	Consideration of the Late Night Levy by the Licensing Working Group
Portfolio Holder:	Cllr Paul Bates - Communities and Health

1.0 Report Summary

- 1.1 To provide Members of the Committee with the findings of the working group tasked with considering the Late Night Levy (LNL).

2.0 Recommendation

- 2.1 That Members note the content of the report and consider the proposed recommendations within the report (appendix A):

The working group recommends that the Licensing Committee resolves that the implementation of the Late Nigh Levy or an Early Morning Restriction Order is not appropriate at this time.

3.0 Reasons for Recommendations

- 3.1 Members of the Licensing Committee have been requested to consider whether the Council should consider imposing a Late Night Levy.
- 3.2 On the 14th January 2014 the Licensing Committee resolved to form a working group to look into the matter and report back to the Licensing Committee with the findings and recommendations based on their work.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The Council has committed, in its Strategic Plan, to ensuring that the residents of Cheshire East 'live well and for longer' and that we have a 'strong and resilient economy'.

6.2 Similarly, the Cheshire East Health and Wellbeing Strategy has a number of key aims linked to alcohol consumption:

- Reduce the levels of alcohol use/misuse by Children and Young People
- Reduce the incidence of alcohol related harm

6.3 The Council's current Statement of Licensing Policy confirms the Council will consider whether a Late Night Levy (LNL) or an Early Morning Restriction Order (EMROs) is an appropriate and proportionate tool to be used within Cheshire East.

6.4 This Policy together with the Statutory Guidance issued by the Home Office in respect of the Licensing Act 2003 confirms the key aims involved in the licensing regime:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them

7.0 Financial Implications

7.1 If Members were minded to consider the implementation of a Levy or the creation of any Orders, additional funding to meet all the implementation requirements (including any further evidence gathering, public notices, and consultation) would need to be identified. Current budgetary allocations make no provision for further development of these proposals or options.

7.2 The cost of implementing a LNL can be recovered from the gross amount collected and deducted before the apportionment of the net figure (ie a minimum of 70% payable to Cheshire Constabulary). However, if the Council were to consult on the implementation of the Levy and having considered the

results of the consultation determine that it should not be implemented additional resources would need to be identified to recover the costs of the consultation process (including public notices).

- 7.3 Additionally, if the Council were to implement the LNL any premises that fall into the levy period would be able to apply for a free variation of licence to reduce their hours to stay outside of the levy scheme. It is impossible to estimate the number of premises that might utilise this facility, but it is likely to impact significantly on the capacity within the Licensing and Legal Teams and consideration should be given to identifying additional financial and staff resources.
- 7.4 There would be no income generated by the creation of an EMRO and it is not possible to quantify the financial benefit, if any, to the Council of their creation.

8.0 Legal Implications

- 8.1 The Police Reform and Social Responsibility Act 2011 enables Licensing Authorities to determine that the LNL is to apply in its area. The Licensing Authority can therefore charge a levy to persons who sell alcohol during the 'late night supply period' to raise contributions towards the enforcement cost associated with the night-time economy
- 8.2 The 'late night supply period' must begin at or after midnight and end at or before 6:00am, but must be the same period every day that it has effect. The LNL must apply to the whole of the Licensing Authority area and is payable by the holder of a 'relevant late night authorisation'. A 'relevant late night authorisation' means a Premises Licence or Club Premises Certificate which authorises the supply of alcohol during the late night supply period.
- 8.3 The Police Reform and Social Responsibility Act 2011 also amended the provisions of the Licensing Act 2003 that gives a Licensing Authority the power to make an EMRO if it considers it appropriate for the promotion of the Licensing Objectives. An EMRO restricts the sale of alcohol in a particular area for a specified period between the hours of midnight and 6:00am.
- 8.4 If an EMRO is made then existing premises licences and club premises certificates granted by the Authority, and temporary event notices given to the authority, would no longer authorise the sale of alcohol or the supply to club members during the period specified in the EMRO (ie sale of alcohol would stop at a specific time regardless of what the premises licence allows).
- 8.5 The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 confirms that the functions relating to the Late Night Levy and Early Morning Restriction Orders are not to be the responsibility of the Council's Executive and are Licensing Authority functions. Additionally, the Council has previously made provision in its Constitution for all Licensing Authority functions (save for the adoption of the Statement of Licensing Policy which is reserved to Full Council by statute) to be discharged by the Licensing Committee.

- 8.6 In accordance with statutory responsibilities under section 17 of the Crime and Disorder Act 1998 the Council must take reasonable steps to tackle crime, disorder, substance misuse and anti-social behaviour.
- 8.7 The Council also has a statutory responsibility under the Health and Social Care Act 2012 for the health of the population of Cheshire East and it is noted that it is a priority of the local Health and Wellbeing Board to reduce alcohol related harm.

9.0 Risk Management

- 9.1 Members must carefully consider all the information provided and any views received from appropriate stakeholders.
- 9.2 The EMRO and Late Night Levy provisions are both adoptive provisions that require consultation processes to be followed prior to a policy decision on either being made. Adopting either provision in circumstances that may result in a negative impact on existing licence holders will require reliable evidential justifications in order to withstand any potential challenge.
- 9.3 Specific consideration must be given to whether a LNL or EMRO is a proportionate and reasonable response to any problems in our night-time economy.

10.0 Background

- 10.1 On the 14th January 2014 the Licensing Committee (the Committee) considered a request from Cabinet that it consider the implementation of a LNL. A report was presented to the Committee setting out the powers available to the Licensing Authority in relation to the LNL and EMRO.
- 10.2 Accordingly, the Licensing Committee resolved:

That a Working Group, formed from Members of the Licensing Committee, be set up to identify options which may reduce the harmful effects of alcohol consumption within the Cheshire East area.

- 10.3 The attached report (appendix A) sets out the work undertaken by the working group and sets out their findings and recommendations.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report author:

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