

# Annex 1

# CHESHIRE EAST COUNCIL

## REPORT TO: Licensing Committee

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<b>Date of Meeting:</b>	14 <sup>th</sup> January 2014
<b>Report of:</b>	Miss Kim Evans – Licensing Team Leader
<b>Subject/Title:</b>	Late Night Levy and Early Morning Restriction Orders
<b>Portfolio Holder:</b>	Cllr Les Gilbert - Communities and Regulatory Services

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### 1.0 Report Summary

- 1.1 To provide Members of the Committee with information concerning the implementation of a Late Night Levy (LNL) and the making of Early Morning Restrictions Orders (EMROs).

### 2.0 Recommendation

- 2.1 That Members note the content of the report, the attached further information and resolve:
- i. That a Late Night Levy or an Early Morning Restriction Order is not appropriate consideration at this time.
  - ii. That further information on the implementation of the Late Night Levy should be presented to a future meeting of the Committee setting out options that should be considered before formal consultation.
  - iii. That further information on the making of an Early Morning Restriction Order(s) should be presented to a future meeting of the Committee setting out options that should be considered before formal consultation.
  - iv. In respect of options ii. and iii. that the (Licensing Team Leader) be given delegated authority to present further options in consultation with the Chairman of the Licensing Committee and the Portfolio Holder for Communities and Regulatory Services.

### 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 This report therefore seeks to provide Members of the Committee with information concerning the LNL and EMROs so that they are aware of the different powers that can be used to deal with problems associated with the consumption of alcohol.

#### **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 is silent on the LNL and EMROs as those provisions were not in place when it was adopted in 2009. However, the Council has recently adopted a revised Statement of Licensing Policy (to take effect from February 2014) that confirms the Council will consider whether a LNL or EMRO is appropriate. This revised 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 any work in this area.
- 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 meet 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 curtail their hours. 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 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, do not have effect to the extent that they authorise the sale of alcohol or the supply to club members during the period specified in the EMRO.

- 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 the problems in our night-time economy or whether alternative measures can be considered. This may include a Cumulative Impact Policy for certain areas or supporting business led best practice schemes (eg Purple Flag or Best Bar None).

## **10.0 Background**

- 10.1 In 2012 the Home Office carried out a 12 week consultation 'Dealing with the Problems of Late Night Drinking', inviting views on two measures in the Police Reform and Social Responsibility Act 2011 (2011 Act), the Late Night Levy and Early Morning Restriction Orders. Following this consultation regulations implemented these powers were made on 31<sup>st</sup> October 2012.

### **10.2 Late Night Levy**



- 10.2.1 The Late Night Levy is a power at the disposal of the Licensing Authority to introduce a charge for premises that have an alcohol licence with a terminal hour after midnight. It allows the Licensing Authority to charge those businesses for the extra costs that the night-time economy generates for the Police and Local Authority.
- 10.2.2 If introduced, the LNL would apply to all premises (on and off-trade) within the Borough that qualify, the only exceptions being those set by the Government. The levy will be collected at the same time as the annual licensing fee.
- 10.2.3 The licensing authority will need to decide at what time the levy will apply within an operational window that is restricted to between 12 midnight and 6am. Members may wish to consider, if they are minded to consult on the implementation of the LNL, whether different time periods should be consulted on or to leave this open to the views of those who choose to comment.
- 10.2.4 The LNL is aimed not at individual premises, as the costs caused by the night time economy are often not directly linked to any particular businesses, but instead occur as a result of the night time economy as a whole.
- 10.2.5 If introduced, the Licensing Authority can deduct the costs of administering, collecting and enforcing the scheme from the gross collection. From the remainder, at least 70% of the net amount must be passed to the Police. Up to 30% of the total amount retained by the Licensing Authority is ring-fenced to address issues linked to alcohol related crime. No restrictions are imposed on the use of the monies passed to the Chief Officer of Police and the PCC.
- 10.2.6 The levy paid is dependent on the rateable value of the premises and is set by the Government. This is the same as the existing licence fee and annual fee system.
- 10.2.7 Provision is made for a number of discretionary exemptions and reductions in the LNL. Exemptions to the LNL could be offered to:
- § Premises with overnight accommodation
  - § Theatres and cinemas
  - § Bingo halls
  - § Community amateur sports clubs
  - § Community premises
  - § Country village pubs
  - § Business Improvement Districts
- 10.2.8 The Licensing Authority will need to determine whether any of the exemptions should apply and the criteria within which they can be triggered. There is also discretion to offer a 30% reduction from the LNL to premises that are either a member of a specified best practice scheme such as Pubwatch or in receipt of Small Business Rate Relief (with a rateable value of less than £12,000). An exemption to those premises that only have a late-night authorisation to supply alcohol on the premises on 1 January can also be given.

10.2.9 Members should be aware that a significant number of the premises with late licenses may decide to reduce their sale of alcohol hours by submitting a minor variation application as the cost of the LNL may not be worth the continued sales of alcohol after midnight. This would obviously result in a significant reduction in the amount of potential income (there is a requirement to waive the fee for those premises wishing to take advantage of this procedure).

### **10.3 Early Morning Restriction Orders**

10.3.1 An EMRO is a power which enables the Licensing Authority to restrict the sale of alcohol where they consider that there are alcohol related crime and disorder issues in the whole or a part of their area between midnight and 6:00am on all or some days.

10.3.2 This restriction would apply to Premises Licences, Club Premises Certificates and Permitted Temporary Events. There are no exceptions to the type of premises that will be affected by an EMRO except for hotels who provide alcohol to residents through minibars and room service. However hotels who serve alcohol in a bar, lounge or lobby will be affected by an EMRO.

10.3.3 Evidence from Responsible Authorities, local Community Safety Partnerships, together with its own evidence should be used to determine whether an EMRO is appropriate for the promotion of the four Licensing Objectives:

- § The Prevention of Crime and Disorder
- § Public Safety
- § The Prevention of Public Nuisance)
- § The Protection of Children from Harm

10.3.4 The Licensing Authority would need to consider the area, days and times in relation to which the EMRO might apply. However, EMROs will not apply to any premises on New Year's Eve.

10.3.5 Licensing Authorities are required to advertise their proposals on their website and in a local newspaper as well as notifying those licence holders within the proposed EMRO area. Any person wishing to make representations for, or against, the proposal will have 42 days in which to lodge their comments.

10.3.6 If representations are received then a hearing must be held to determine the outcome of the EMRO. It is not unrealistic to expect a large number of representations which could require the hearing being held over a number of days. If it is determined appropriate that an EMRO be made, the licensing authority must be able to demonstrate an evidence based justification for its decision, or risk judicial challenge. If, following representations there are any changes to the original proposal there is a requirement that consultation on the new EMRO be undertaken.

10.3.7 The Licensing Authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing



objectives and periodically review whether it is appropriate to continue to apply it.

#### **10.4 Conclusions**

10.4.1 The decision whether or not to implement a LNL or an EMRO is at the discretion of the Licensing Authority. However, any decisions taken should be evidence based and proportionate.

10.4.2 The introduction of a LNL or an EMRO may result in a reduction of the night time economy where businesses move to other areas where a LNL or EMRO is not in place. Members should consider the financial burden placed upon local businesses directly and indirectly involved in the night time economy.

10.4.3 The Committee is not requested at this stage to decide whether or not to implement the LNL or an EMRO. The Committee is requested to consider the information presented and to resolve whether or not they are minded to have further proposals presented upon which the Authority can consult.

10.4.4 To help Members formulate a decision, the following documents have been produced:

- i. The Home Office Guidance (2012) in relation to the LNL (Appendix A)
- ii. Section 16 of the Guidance issued by the Home Office in relation to the Licensing Act 2003, which provides guidance on EMROs (Appendix B)
- iii. A statistical report from Cheshire Constabulary showing crimes and incidents related to alcohol for the period 01/11/2012 to 31/10/2013 (Appendix C)
- iv. A report from the Cheshire Constabulary setting out their views (Appendix D)
- v. A breakdown of the estimated income that would be generated by the LNL (Appendix E - to follow)

#### **11.0 Access to Information**

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

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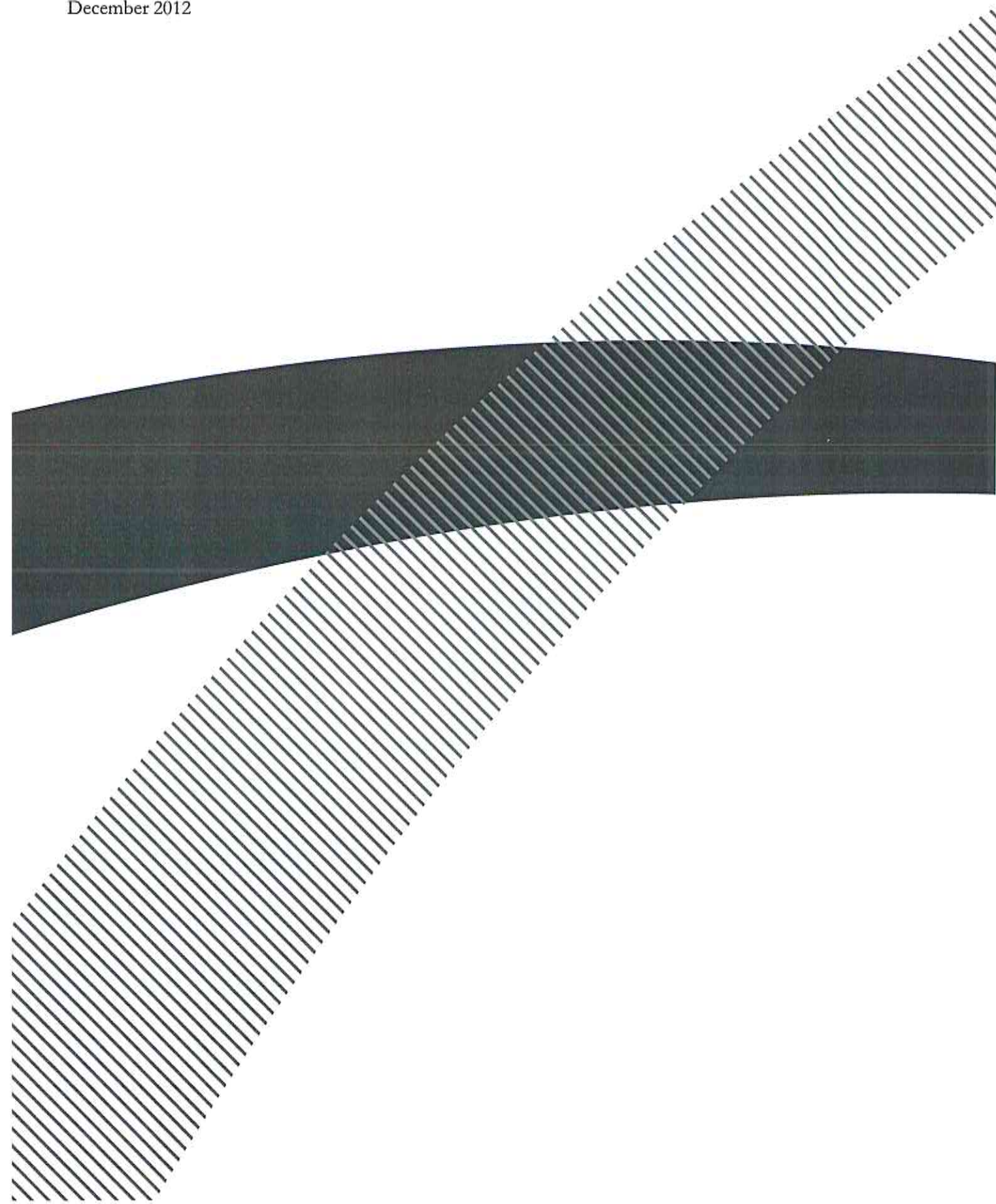
# AMENDED GUIDANCE ON THE LATE NIGHT LEVY

December 2012

Appendix A



Home Office



## **GUIDANCE ON THE LATE NIGHT LEVY**

- 1.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 1.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.
- 1.3 A licensing authority is the authority which carries out licensing functions under the Licensing Act 2003 (“the 2003 Act”). The main licensing authorities, as defined in the 2003 Act, are:
  - the council of a district in England;
  - the council of a county in England in which there are no district councils;
  - the council of a county or county borough in Wales;
  - the council of a London borough.
- 1.4 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by the full council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

## **INTRODUCTION OF THE LEVY**

- 1.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.<sup>1</sup> Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.
- 1.6 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 1.7 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities as set out in paragraph 1.42.

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1 In this guidance, a reference to a PCC include a reference to the holder of the Mayor’s Office for Policing and Crime. Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) take place on 15th November 2012. Once appointed, PCCs will be expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.



- 1.8 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 1.9 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).
- 1.10 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.
- 1.11 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document will state its intention to introduce a levy, its proposed design (including the late night 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. It would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office.

## **IMPLEMENTATION OF THE LEVY**

- 1.15 The licensing authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period (“relevant late night authorisation”) of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police force and licensing authority. Holders of relevant late-night authorisations should also be notified of the date before which any applications for a minor variation must be made to the authority, as set out in paragraph 1.16. We recommend that licensing authorities set the start date of the levy no less than three months after those notifications have been sent.
- 1.16 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. It is recommended that licensing authorities may wish to allow holders no less than two months to make such applications. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.
- 1.17 The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year. The licensing authority will determine the manner in which any statement is published.
- 1.18 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year. Licensing authorities may wish to notify holders of a relevant late night authorisation of any such decision.

## **DESIGN OF THE LEVY**

- 1.19 The levy must apply to the whole of the licensing authority’s area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority’s area. Any such holder will be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.
- 1.20 As set out in paragraph 1.9, the late night supply period must begin at or after midnight and end at or before 6am. The licensing authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late-night supply period cannot apply on different days or times.
- 1.21 The levy will apply to boats, which are licensed at the place where they are usually moored or berthed. It will also apply to mobile bars, which are required to be licensed at the place where they are parked and carry on the licensable activity.
- 1.22 The levy will not apply to Temporary Event Notices (TENs).



## EXEMPTIONS FROM THE LEVY

- 1.23 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through 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.
- 1.25 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.
- 1.26 **Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- 1.27 **Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses. The definition of a “cinema” or a “theatre” should be readily understood by its plain, ordinary meaning.
- 1.28 **Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- 1.29 **Community Amateur Sports Clubs (“CASCs”):** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).
- 1.30 **Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
- 1.31 **Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.
- 1.32 **New Year’s Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

- 1.33 **Business Improvement Districts (“BIDs”)**: Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. Licensing authorities have the discretion to determine whether the BIDs in their area are eligible.

## **REDUCTIONS FROM THE LEVY**

- 1.34 Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy.
- 1.35 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:
- a clear rationale as to why the scheme’s objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder;
  - a requirement for active participation in the scheme by members; and
  - a mechanism to identify and remove in a timely manner those members who do not participate appropriately.
- 1.36 Licensing authorities have discretion as to how best practice schemes can demonstrate that they meet these benchmarks. We expect licensing authorities to use their existing partnerships with best practice schemes, and understanding of a scheme’s operation in their area, to identify eligible schemes in their areas. Licensing officials could visit representatives from best practice schemes in their area, or request written details of the scheme’s objectives, if they decide to consider this reduction category.
- 1.37 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief (as specified in Part III of the Local Government Finance Act 1988) and have a rateable value of £12,000 or less. This reduction is only available to holders in relation to premises that supply alcohol for consumption on the premises. The relevant billing authority may have information on which premises in the licensing authority area are in receipt of Small Business Rate Relief.
- 1.38 If the licensing authority decides to introduce or remove categories of exemption and/or reduction after Year zero, they will need to follow the same procedure for consultation as set out in 1.11-1.13 though the consultation should only refer to the new proposal. If a licensing authority chooses to remove categories of exemption and/or reduction after Year zero, they should consider that the opportunity for businesses to make a free variation to their licence is only available when the levy is initially introduced.

## **LEVY REVENUE**

- 1.39 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.



- 1.40 There are no restrictions on what the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The PCC's proportion will be subject to the same transparency measures as those that apply in relation to other aspects of the operation of the PCC. The Police and Crime panel will be able to request any documents of the PCC in order to hold them to account in the allocation and use of their funds.<sup>2</sup>
- 1.41 We recommend that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue. We also recommend that the PCC should consider allocating the funds raised from the levy back to local commanders to allow the revenue to be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.
- 1.42 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the 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.
- 1.43 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. As set out in paragraph 1.6, any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.
- 1.44 These deductible costs may include (but are not necessarily limited to) the following:
- the preparation and publication of the consultation document, including publishing it online and sending 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 after midnight on any day;
  - the collection of levy payments;
  - the enforcement of levy payments; and
  - the cost of processing applications for a variation in relation to the introduction of the levy.
- 1.45 There will be no specific restrictions on the amount of the expenses which licensing authorities can claim in expenses, however licensing authorities will have to account for their expenses following existing procedures. The Government may specify a cap on the amount of expenses in further regulations if considered necessary.

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<sup>2</sup> This excludes documents that are operationally sensitive or those that would compromise national security.

## LEVY CHARGE AND COLLECTION PROCESS

1.46 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

<b>Rateable Value Bands (based on the existing fee bands)</b>	<b>A</b> No rateable value to £4,300	<b>B</b> £4,301 to £33,000	<b>C</b> £33,001 to £87,000	<b>D</b> £87,001 to £125,000	<b>E</b> £125,001 and above	<b>D x 2</b> Multiplier applies to premises in category D that primarily or exclusively sell alcohol	<b>E x 3</b> Multiplier applies to premises in category E that primarily or exclusively sell alcohol
<b>Levy Charges</b>	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

1.47 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C).

1.48 The levy will be collected at the same time as the annual licence fee (except in relation to holders premises who obtain a relevant late night authorisation during a levy year). The holder will, therefore, be required to pay the levy on an annual basis. For holders whose licences exist at the time that the first levy year begins, the payment year will be the same as the levy year<sup>3</sup>. These holders will make their first levy payment when they pay their annual fee. For holders who are granted a licence in the first or subsequent levy years, the payment year runs from the date of the grant of the licence and for each year thereafter. Their first payment will be made 14 days after the grant of the licence, and thereafter when they pay their annual fee.

1.49 In the following circumstances, licensing authorities should adjust a holder's liability to the levy:

- a licence lapses under section 27 of the 2003 Act (that is if the holder of the licence dies, becomes mentally incapable, becomes insolvent, if the partnership holding the license is dissolved or if it is a club, ceases to be a recognised club);
- an EMRO is made which prohibits premises from serving alcohol at any time when the levy applies; or
- the amount of the levy reduction is the amount found by applying the formula:  $R = (L/365) \times N$  (see footnote<sup>4</sup>).

<sup>3</sup> The payment year is the period by reference to which a licence holder's liability to the levy is determined. The levy year is the period during which the levy applies.

<sup>4</sup> R is the levy reduction, L is the amount of the late night levy payable by the holder of the relevant late night authorisation and N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.



- 1.50 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might chose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.
- 1.51 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.



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## 16. Early morning alcohol restriction orders

### General

- 16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders ("EMROs"). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 16.3 An EMRO:
- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
  - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
  - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
  - applies to the whole or any part of the licensing authority's area;
  - will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January each year);
  - will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
  - will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

### The EMRO process

- 16.4 An EMRO can apply to the whole or part of the licensing authority's area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 16.5 If the licensing authority already has a Cumulative Impact Policy ("CIP") in its Licensing Policy Statement (see Chapter 13 of this Guidance), it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.
- 16.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must



be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

## **Evidence**

- 16.7 When establishing its evidence base for making an EMRO, a licensing authority may wish to consider the approach set out in paragraphs 13.23 to 13.26 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant.
- 16.8 Before a licensing committee determines to recommend that the full council make a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on their experience from other licensing decisions they make under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

## **Introducing an EMRO**

- 16.9 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.38-9.40 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim. They should, however, consider whether taking that step is reasonable, justified and proportionate. Other measures that could be taken instead of making an EMRO might include:
- introducing a CIP;
  - reviewing licences of specific problem premises;
  - encouraging the creation of business-led best practice schemes in the area;
  - using other mechanisms such as those set out in paragraph 13.39 of this Guidance.
- 16.10 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:
- the days (and periods on those days) on which the EMRO would apply;
  - the area to which the EMRO would apply;
  - the period for which the EMRO would apply (if it is a finite period); and
  - the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.



## Advertising an EMRO

- 16.11 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of "days" means a period comprising calendar days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:
- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
  - premises users in relation to TENs to which the proposed EMRO would apply;
  - those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.
- 16.12 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.
- 16.13 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

## Representations

- 16.14 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:
- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
  - be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
  - be received within the deadline; and
  - if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.
- Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.
- 16.15 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).
- 16.16 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:
- residents;
  - employees of affected businesses;
  - owners and employees of businesses outside the proposed EMRO area; and
  - users of the late night economy.



## Hearings

- 16.17 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.
- 16.18 As described in paragraph 16.6, a hearing to consider representations in relation to an EMRO may be held by the licensing committee, the licensing sub-committee or an officer of the licensing authority. It is recommended, however, that such hearings be conducted by the licensing committee or sub-committee.
- 16.19 Licensing committees should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:
- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
  - the hearing does not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers this approach to be in the public interest;
  - a licensing committee or sub-committee must make its determination within 10 working days of the conclusion of the hearing; and
  - the licensing committee or sub-committee is not required to notify those making representations of its determination.
- 16.20 The licensing committee or sub-committee will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing committee or sub-committee determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.
- 16.21 As a result of the hearing, the licensing committee has three options:
- to determine that the proposed EMRO is appropriate for promotion of the licensing objectives;
  - to determine that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
  - to determine that the proposed EMRO should be modified.

In the final case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations may be made.

## Final EMRO

- 16.22 If the licensing determines that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision. There is no time specified in legislation by which the full council must make this decision. This is intended to reflect the fact that the licensing authority may only meet in full council infrequently.



- 16.23 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.21. The order must be set out in the prescribed form and contain the prescribed content.
- 16.24 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.
- 16.25 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.
- 16.26 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.
- 16.27 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.
- 16.28 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

## **Exceptions to an EMRO**

- 16.29 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

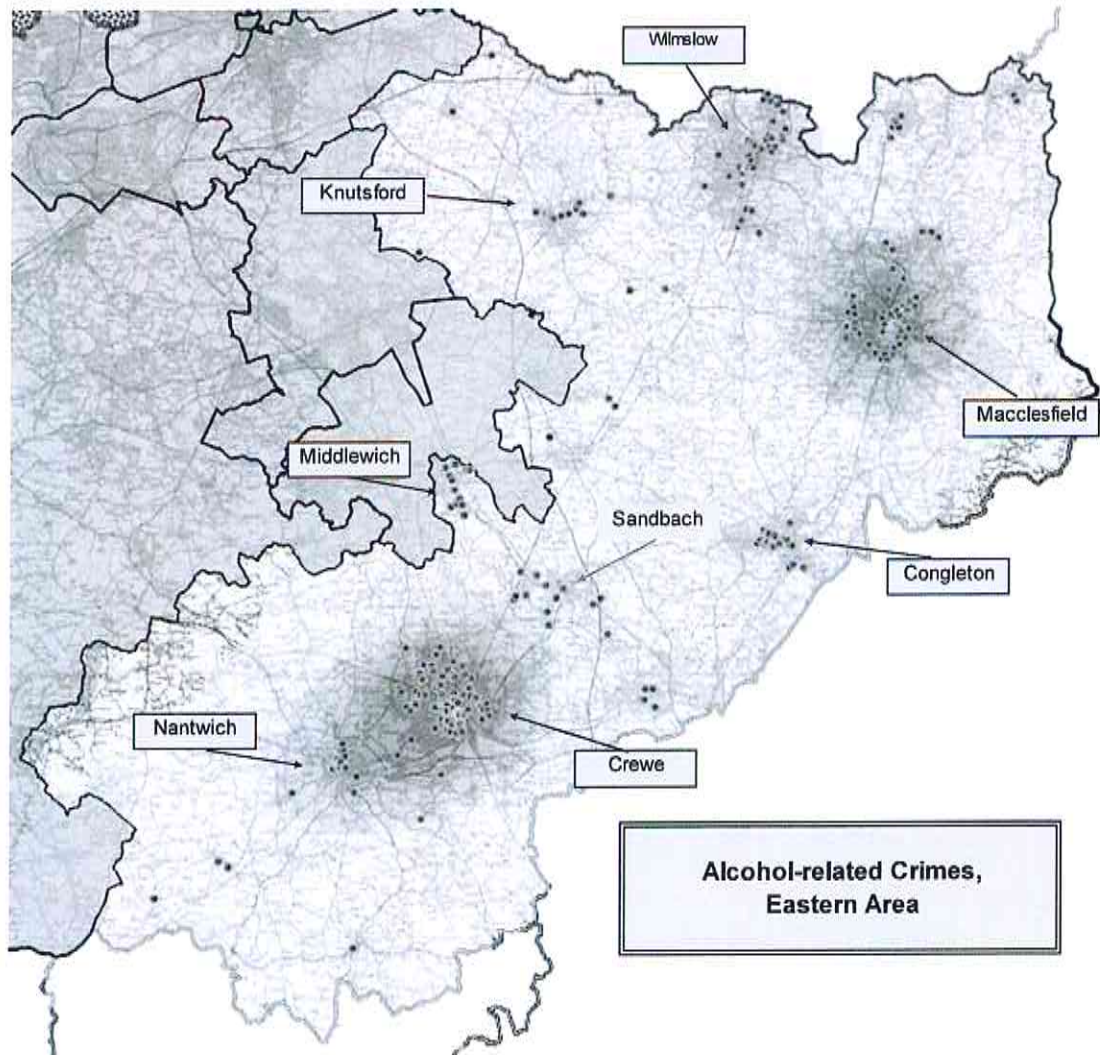
## **Enforcement of EMROs**

- 16.30 The sale or supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.
- 16.31 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.



## CHESHIRE EAST – ALCOHOL RELATED CRIME & INCIDENTS

### 1. All Alcohol Related Offences between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were **519** reported Alcohol flagged crimes between 00:00 and 06:00.

Hotspot mapping indicates concentrations of offences in Crewe, Macclesfield and Wilmslow.

The top offences by Home Office Group were 8N Assault with injury 32.4%, 105A Assault without injury 28.5%, 9A Public fear, alarm & distress 5.6% and 58C Criminal damage to a vehicle 5.6%.

The busiest three months for offences were December 2012 (75), March (52) and August (50).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.



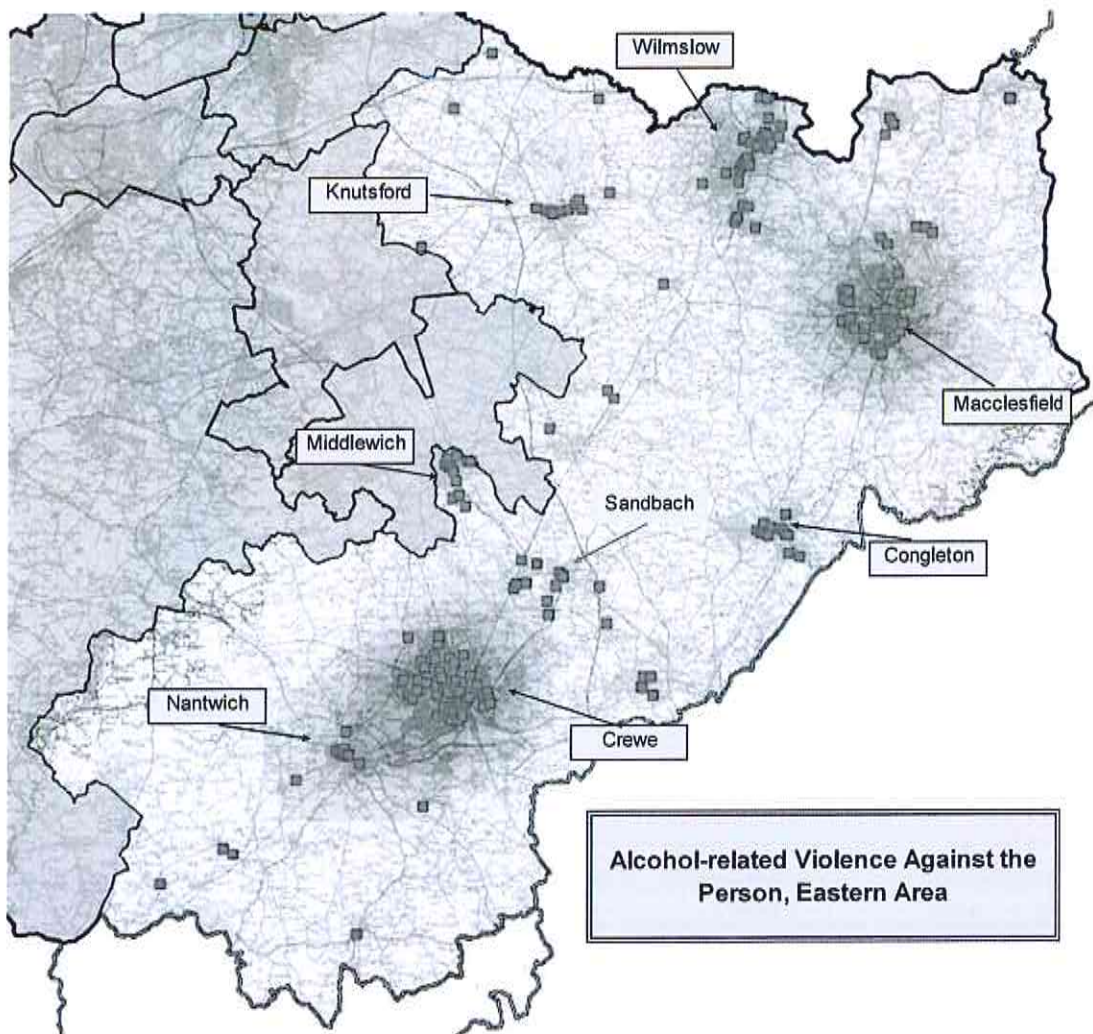
Crime Type	Count	%
Assault with injury	168	32.4%
Assault without injury	148	28.5%
Criminal Damage/Vehicle	29	5.6%
Public fear/alarm/distress	29	5.6%
Criminal Damage/Dwelling	25	4.8%
Criminal Damage/Building other	21	4.0%
Other Criminal Damage	17	3.3%
Other offences state/public order	10	1.9%
Shoplifting	9	1.7%
Assault without injury on a constable	7	1.3%
Possession controlled drugs (except cannabis)	6	1.2%
Possession controlled drugs (cannabis)	6	1.2%
Rape of a female aged 16 and over	5	1.0%
Racially or religiously aggravated public fear, alarm or distress	5	1.0%
Theft from the person	4	0.8%
Racially or religiously aggravated assault without injury	4	0.8%
Arson not endangering life	3	0.6%
Possession of other weapons	2	0.4%
Sexual assault on a female aged 13 or over	2	0.4%
Burglary in a dwelling	2	0.4%
Aggravated vehicle taking	2	0.4%
Theft - Making Off Without Payment	2	0.4%
Assault with Intent to cause Serious Harm	2	0.4%
Theft in a dwelling other than from automatic machine/meter	1	0.2%
Theft from a vehicle	1	0.2%
Other theft	1	0.2%
Threat or possession with intent to commit criminal damage	1	0.2%
Interfering with a motor vehicle	1	0.2%
Dangerous driving	1	0.2%
Threats to kill	1	0.2%
Racially or Religiously Aggravated Criminal Damage	1	0.2%
Exposure and voyeurism	1	0.2%
Harassment	1	0.2%
Racially or Religiously Aggravated Assault with injury	1	0.2%
<b>Total Offences</b>	<b>519</b>	<b>100.0%</b>

Month	Total
November	42
December	75
January	33
February	39
March	52
April	31
May	41
June	45
July	38
August	50
September	26
October	47
<b>Total</b>	<b>519</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	14	5	8	13	13	39	42	134
01:00-01:59	8	7	10	8	12	35	47	127
02:00-02:59	4	4	6	8	5	33	42	102
03:00-03:59	7	1	4	6	4	41	24	87
04:00-04:59	4	4	2	3	7	11	18	49
05:00-05:59	1		2	2	3	6	6	20
<b>Total</b>	<b>38</b>	<b>21</b>	<b>32</b>	<b>40</b>	<b>44</b>	<b>165</b>	<b>179</b>	<b>519</b>



## 2. Alcohol Related VAP (Violence Against the Person) Offences between 0000-0600hrs





During the 12 month period from 1st November 2012 to 31st October 2013 there were 368 reported Alcohol flagged violence against the person crimes between 00:00 and 06:00.

Hotspot mapping indicates concentrations of offences in Crewe, Macclesfield and Wilmslow.

The top offences by Home Office Group were 8N Assault with injury 45.7%, 105A Assault without injury 40.2%, and 9A Public fear, alarm & distress 7.9%.

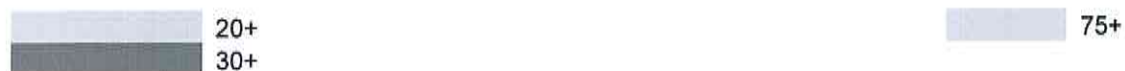
The busiest three months for offences were December 2012 (59), March (37) and August (34).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

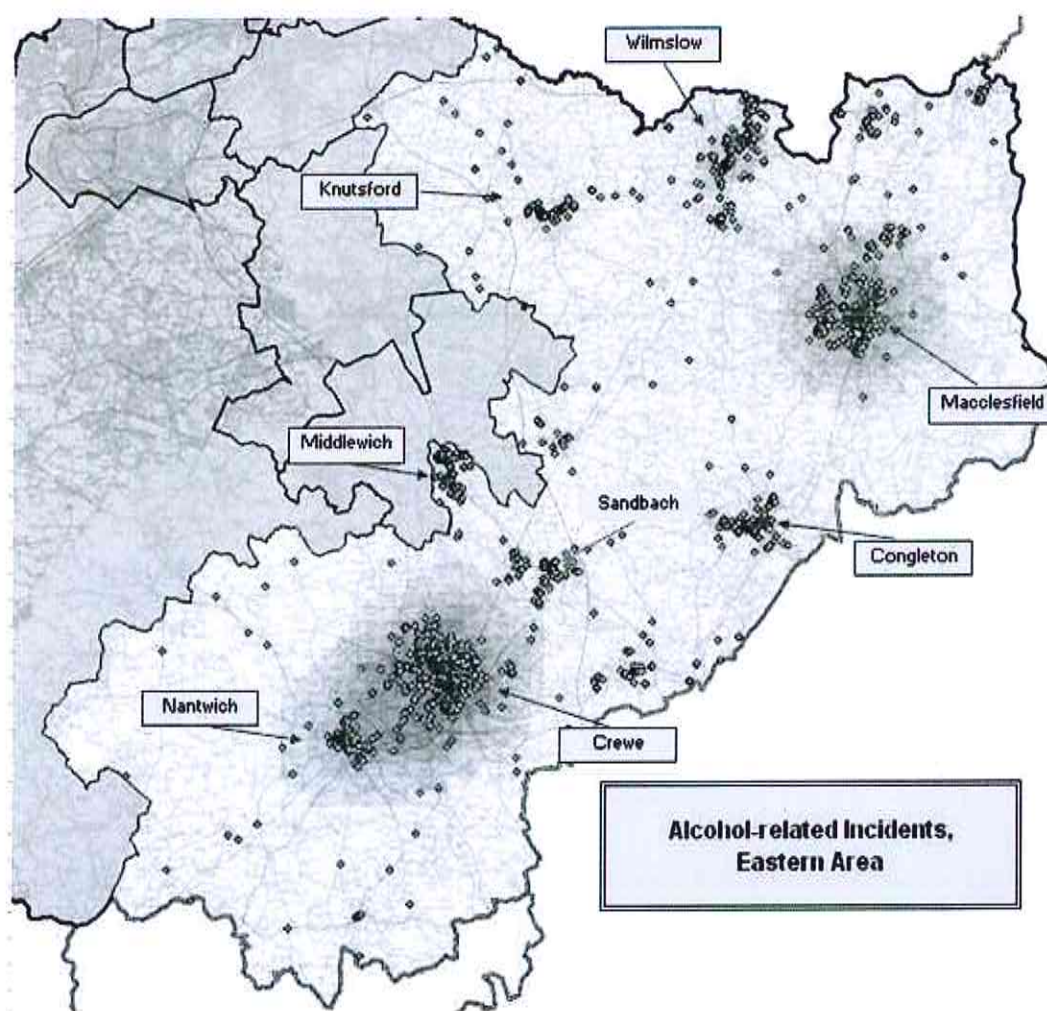
Crime Type	Count	%
Assault with injury	168	45.7%
Assault without injury	148	40.2%
Public fear/alarm/distress	29	7.9%
Assault without injury on a constable	7	1.9%
Racially or religiously aggravated public fear, alarm or distress	5	1.4%
Racially or religiously aggravated assault without injury	4	1.1%
Possession of other weapons	2	0.5%
Assault with Intent to cause Serious Harm	2	0.5%
Threats to kill	1	0.3%
Harassment	1	0.3%
Racially or Religiously Aggravated Assault with injury	1	0.3%
<b>Total VAP Offences</b>	<b>368</b>	<b>100.0%</b>

Month	Total
November	33
December	59
January	22
February	25
March	37
April	22
May	30
June	31
July	31
August	34
September	16
October	28
<b>Total</b>	<b>368</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	10	4	6	7	10	28	34	99
01:00-01:59	6	3	6	3	8	26	35	87
02:00-02:59	4	3	4	6		29	31	77
03:00-03:59	4		3	6	2	28	14	57
04:00-04:59	2	1	1	2	3	10	14	33
05:00-05:59			2	2	2	4	5	15
<b>Total</b>	<b>26</b>	<b>11</b>	<b>22</b>	<b>26</b>	<b>25</b>	<b>125</b>	<b>133</b>	<b>368</b>



### 3. All Alcohol Related Incidents between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were 2037 reported incidents with an Alcohol qualifier between 00:00 and 06:00.

Hotspot mapping indicates concentrations of incidents in Crewe/Nantwich, Macclesfield and Wilmslow.



The top three types of incident by closure code were BP – Personal anti-social behaviour 18.2%, BN - Nuisance anti-social behaviour 15.5%, and SD – Concern for Safety 14.5%.

The busiest three months for offences were December 2012 (253), August (204) and October (182).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

Incident Type	Count	%
PERSONAL ANTI SOCIAL BEHAVIOUR	371	18.2%
NUISANCE ANTI SOCIAL BEHAVIOUR	316	15.5%
CONCERN FOR SAFETY OR WELFARE	295	14.5%
ROAD RELATED TRAFFIC OFFENCE	231	11.3%
DOMESTIC INCIDENTS - BETWEEN ADULTS	185	9.1%
VIOLENCE / HARASSMENT / THREAT TO LIFE	184	9.0%
SUSPICIOUS PERSON / VEHICLE / ACTIVITY	84	4.1%
CRIME NOT VERIFIED	69	3.4%
ENVIRONMENTAL ANTI SOCIAL BEHAVIOUR	48	2.4%
POLICE GENERATED	41	2.0%
COLLAPSE / ILLNESS / INJURY / TRAPPED	29	1.4%
CRIMINAL DAMAGE/ARSON	28	1.4%
ABANDONED PHONE CALLS	26	1.3%
DAMAGE ONLY RTC	19	0.9%
OTHER NOTIFIABLE CRIME	19	0.9%
MISSING PERSON - ANY RISK TYPE	12	0.6%
SIMPLE ADVICE/DIRECTIONS	11	0.5%
RTC - INJURY - SERIOUS / MINOR	11	0.5%
THEFT OTHER	8	0.4%
LICENSING - ALCOHOL, TOBACCO, GAMBLING, ETC	7	0.3%
CIVIL DISPUTES	7	0.3%
CRIME RELATED INCIDENT	4	0.2%
PROVENT POTENTIAL BREACH OF THE PEACE	4	0.2%
SEXUAL OFFENCES	3	0.1%
DOMESTIC INCIDENTS - INVOLVING A JUVENILE	3	0.1%
HOAX CALLS	3	0.1%
HIGHWAY DISRUPTION	3	0.1%
BURGLARY DWELLING	2	0.1%
DRUGS	2	0.1%
COMPLAINTS AGAINST POLICE	2	0.1%
PROPERTY - LOST / FOUND / FIREARMS OR WEAPONS SURRENDERED	2	0.1%
BAIL BREACHES / WANTED PERSON	2	0.1%
CENTRAL STATION ALARM FALSE ACTIVATION	1	0.0%
THEFT OF MOTOR VEHICLE	1	0.0%
THEFT FROM MOTOR VEHICLE	1	0.0%
OTHER	1	0.0%
ANIMAL CONCERN/CRUELTY	1	0.0%
INSECURE PREMISES	1	0.0%
<b>TOTAL</b>	<b>2037</b>	<b>100.0%</b>

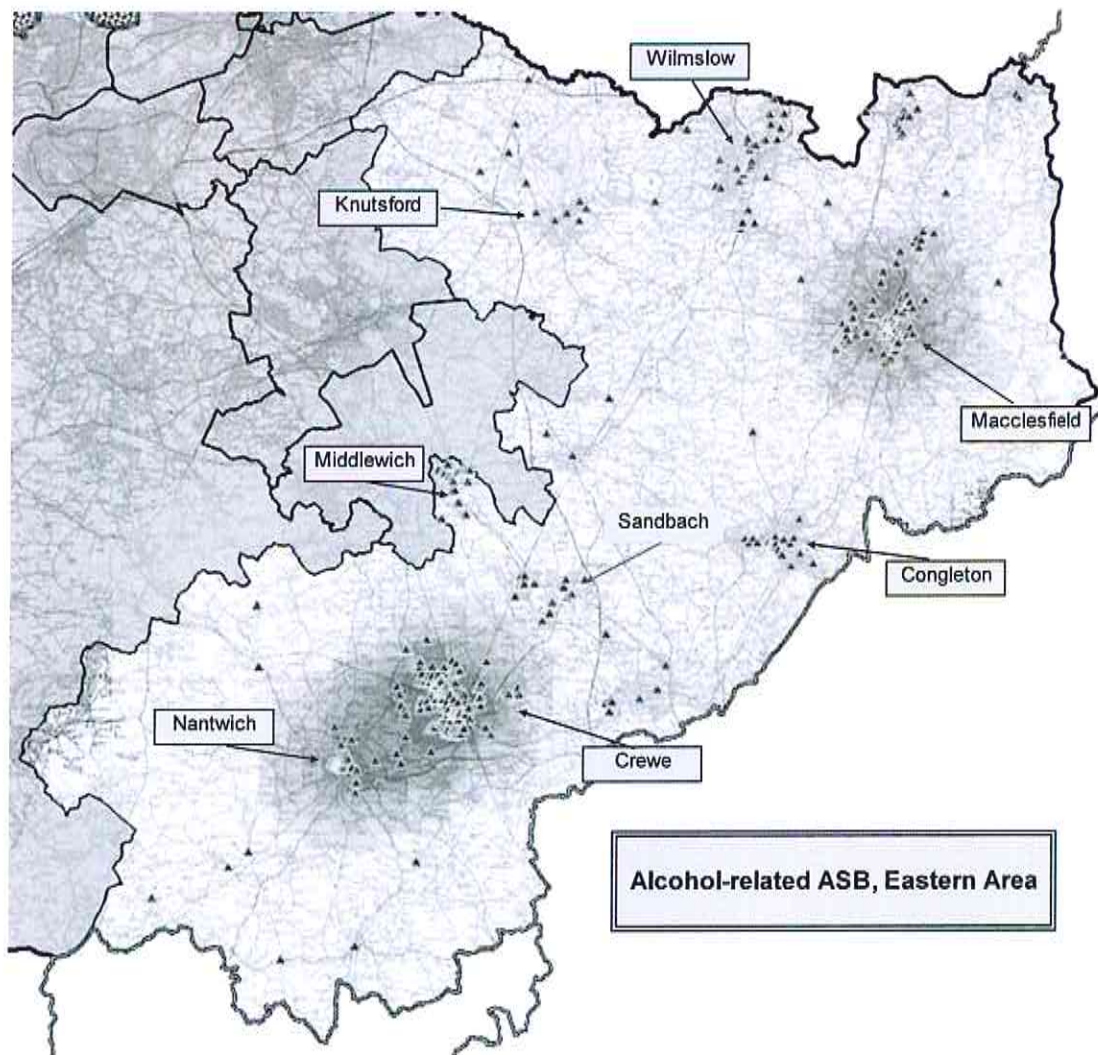
Month	Total
November	172
December	253
January	158
February	152
March	138
April	170
May	151
June	136
July	144
August	204
September	177
October	182
<b>Total</b>	<b>2037</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	42	41	36	45	65	172	173	574
01:00-01:59	43	33	38	31	44	164	166	519
02:00-02:59	25	24	29	22	32	141	148	421
03:00-03:59	21	12	16	9	30	114	106	308
04:00-04:59	10	7	6	9	18	39	54	143
05:00-05:59	6	3	3	8	9	24	19	72
<b>Total</b>	<b>147</b>	<b>120</b>	<b>128</b>	<b>124</b>	<b>198</b>	<b>654</b>	<b>666</b>	<b>2037</b>





#### 4. All Alcohol Related Anti-Social Behaviour Incidents between 0000-0600hrs



During the 12 month period from 1st November 2012 to 31st October 2013 there were 735 reported anti-social behaviour incidents with an Alcohol qualifier between 00:00 and 06:00.

Hotspot mapping indicates concentrations of incidents in Crewe/Nantwich and in Macclesfield.

Anti-social behaviour incidents by closure code were BP – Personal anti-social behaviour 50.5%, BN - Nuisance anti-social behaviour 43.0%, and BE – Environmental anti-social behaviour 6.5%.

The busiest three months for offences were December 2012 (88), August (74) and October (65).

The combined peak days/times for offences were Saturday and Sunday between 00:00 and 04:00.

ASB Type	Count	%
ASB Personal	371	50.5%
ASB Nuisance	316	43.0%
ASB Environmental	48	6.5%
<b>Total VAP Offences</b>	<b>735</b>	<b>100.0%</b>

Month	Total
November	59
December	88
January	59
February	53
March	61
April	63
May	53
June	52
July	53
August	74
September	55
October	65
<b>Total</b>	<b>735</b>

Time Range	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
00:00-00:59	15	15	13	18	23	64	71	219
01:00-01:59	15	13	13	5	19	62	60	187
02:00-02:59	5	7	13	4	10	54	56	149
03:00-03:59	4	5	5	1	17	55	42	129
04:00-04:59		2	1	3	6	10	15	37
05:00-05:59	2	1		3	1	4	3	14
<b>Total</b>	<b>41</b>	<b>43</b>	<b>45</b>	<b>34</b>	<b>76</b>	<b>249</b>	<b>247</b>	<b>735</b>

40+  
60+

100+



## APPENDIX D

Cheshire East Council Licensing Committee

### **BRIEFING NOTE FROM THE CHESHIRE CONSTABULARY - EARLY MORNING RESTRICTED OPENING, LATE NIGHT LEVY AND DESIGNATED PUBLIC PLACE ORDERS**

#### **Scope**

The delivery of operational policing is the responsibility of the Chief Constable, a unique and historic role that for good reason is not directly accountable to the public. This accountability rests with the Police and Crime Commissioner who, democratically elected, is empowered to hold the Chief Constable to account on behalf of the public. This briefing note represents the views of the Constabulary and not the Office of the Police & Crime Commissioner.

#### **Context**

Fundamental to the idea of policing by consent is an understanding of the context in which consent is given. Policing the consequences of alcohol sale and use, needs to be set within its wider social and economic context. In some respects this is quite positive:

- Since 2004 the overall volume of alcohol consumed in the UK has reduced.
- In Cheshire East the overall volume of police recorded alcohol related crime and anti social behaviour has also reduced, from a total of 4,599 crimes & incidents in 2009/10 to 3,375 in 2012/13.

However:

- The UK per capita rate of consumption remains high - around twice the global average.
- The overall reduction in consumption is largely within low strength beer and wine and masks an increase in the consumption of higher strength alcohol such as spirits.
- In Cheshire East the proportion of alcohol related disorder occurring between mid-night and 4am has shown an increase since 2011/12 with for the first time in 2012/13 more disorder occurring in the four hours after midnight than the four hours prior.

This changing pattern of consumption has been driven by the increased *availability* of alcohol and a growing *price differential* between what were formerly known as “off” and “on” licence sales.

Taking beer as an example, the Licensing Act 2003 relaxed restriction on when alcohol can be sold allowing (off licences) supermarkets to sell beer throughout the day (and night). As part of a wider portfolio of household products beer can be sold at a cash price per unit that is little different to that paid in the 1980s. With average incomes two to three times higher now than in the 1980s this equates to real terms decrease in price of around 70%. Meanwhile former “on” licensed premises (pubs and clubs) selling beer as part of a much more limited entertainment portfolio do so at prices around three times that of the supermarkets.

This increased *availability* and growing *price differential* has had two principal consequences:

- An alarming growth in the number of presentations to acute Health Services of Liver Related Diseases caused by a group within the overall drinking population that is drinking more (by volume or strength or both), and reaching hazardous levels of consumption at an earlier age.
- An increase in “pre loading” or the consumption of cheap alcohol at home prior to going out to pubs and clubs. The consequence of this is that people are arriving at pubs and clubs later, and more intoxicated.

### Specific Policing Implications

#### Incidence

The table below summarises outline data in terms of the *incidence* of alcohol related crime and disorder recorded in Cheshire East.

Incidence of alcohol related crime and disorder	2009-10	2010-11	2010-11	2012-13	Change (Volume)	Change (Per Cent)
Total no of Crimes	1801	1871	1810	1266	-535	-30%
Total no of ASB Incidents	2798	2572	2374	2109	-689	-25%
ASB incidents from 0001 - 0600hrs	884	790	788	770	-114	-13%
Proportion of ASB from 0001 -0600hrs	32%	31%	33%	37%	+5	+5%

There has been a significant reduction in the volume of Crime and Anti-Social Behaviour recorded in Cheshire East on average throughout the full twenty four hour period of the day. There has also been a reduction in the volume of ASB recorded between mid-night and 6am. However this mid-night to 6am reduction is at about only half the level of the overall reduction. The consequence of this is that Crime and Anti-Social Behaviour occurring between mid-night and 6am, as a proportion of the overall total is growing.

#### Spread

The table below summarises data relating to the spread (in both time and space) of specific alcohol related offences occurring between mid-night and 6am across Cheshire East over the twelve months up until November 2013.

Spread of alcohol related crime and disorder	Areas in which incidence is concentrated	Peak days/Times	Proportion of incidence at peak times
All alcohol related crimes 0001 -0600hrs	Crewe, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	58%
All alcohol related violence against the person 0001 - 0600hrs	Crewe, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	61%
All Alcohol related incidents 0001 – 0600hrs	Crewe, Nantwich, Macclesfield & Wilmslow	Saturday & Sunday mid-night to 4am	58%
All Alcohol related ASB 0001 – 0600hrs	Crewe, Nantwich, & Macclesfield	Saturday & Sunday mid-night to 4am	54%



Not surprisingly incidence is concentrated by *geography* on the larger towns with the peak times between mid-night and 4am on Saturday and Sunday.

## Regulation

The key challenge for policing alcohol related crime & Anti- Social Behaviour is the *shift* in demand than the *volume* of it. With more demand occurring in the early hours, and concentrated in towns it draws resources away from the visible and accessible policing in their local neighbourhood that the public desire. The Constabulary recognises that the growing differential in price has made the licensed (on) trade as much a victim of the consequences of this shift as policing, and its first instinct would be to work with the trade to reverse or at least mitigate the effect of this shift. The Constabulary's ArcAngel approach to reducing alcohol related crime and Anti-Social Behaviour is strong evidence of this. However should regulation prove the only way forward the Constabulary would offer the following views on the individual measures under consideration>

**Early Morning Restricted Opening (EMRO)** As a measure to limit or reverse the *shift* in demand into the early hours, the Constabulary would support any moves to implement an EMRO with late night extension restricted ideally to a 2am maximum, plus a voluntary code of practice through Archangel. However it is clear from experience nationally that such a move would be resisted by the trade.

**Late Night Levy (LNL)** A more complex tool the LNL would offset the cost of the *shift* in demand rather than limit or reverse it, and would fail to address the essential resource tension between policing the evening economy throughout the night and providing visible & accessible policing in neighbourhoods, throughout the day.

The Constabulary would have some concerns around any potential public perception of the levy as a means for the police to generate income. It is important to emphasise that the Police and Crime Commissioner would take receipt of the policing proportion of monies generated by a LNL and has some flexibility on how to spend it other than directly on policing services. He also has some flexibility as to how much he chooses to claim of the proportion that he is entitled to. It is a matter for the Police & Crime Commissioner, but the Constabulary understands that he would be willing to explore such flexibilities.

It might be that the increased cost to premises associated with a LNL would encourage earlier closing, however the cost to individual premises should not be over stated, with our research suggesting the following likely costs:

	Annual Cost	Rate Per day
Band "B" Premises	£768	£2.10
Band "C" Premises	£2159	£3.44
Crewe Hall Hotel	£1493	£4.09

Most premises within Cheshire East would appear to fall into Band B or C. Larger premises such as Crewe Hall would pay fractionally more. In probably each case the cost to the premise per day is around the cost of a pint of beer to one of their customers.

It may be that the political cost of a universal levy is deemed to be greater and the Constabulary would support any exemptions made by the Local Authority for well managed premises away from hotspot areas.

**Designated Public Place Orders (DPPOS)** This measure is most usually used in response to a specific issue relating to the consumption of alcohol in public places other than licensed premises, and gives Officers and Police Community Support Officers the power to confiscate alcohol in certain circumstances. The measure is predominantly aimed at adults aged 18 or above as powers already exist for seizure of alcohol for those below that age. It is a measure unsuited to widespread designation, as within the areas designated, the perfectly legitimate and sensible consumption of alcohol at public events can be affected. For the measure to be wholly effective it requires police to be available to seize alcohol and so some consideration should be given to designate only areas in receipt of reasonably intensive policing around existing alcohol related crime & disorder issues. Whilst it may have its merits the DPPO would appear largely irrelevant to the restriction or reversal of the *shift* in demand on policing.

## **Conclusion**

In summary the Constabulary recognises the wider context in which the regulation of alcohol sale and consumption occurs. In particular that the increased *availability* of alcohol, and the differential in *price* between off and on sales has driven changes in consumption that challenge both licensed premises and policing, as well as generating a greater impact on health services.

The challenge to policing is not around rising demand but instead around a *shift* of demand that creates a tension between the requirements to police the binge drinking alcohol consumer ever later into the night when the rest of the world is asleep, whilst providing visible, accessible policing in neighbourhoods during the day – when most of the world is awake.

The Constabulary would welcome and support any measures taken by the Committee that might enable any restriction or reversal of this *shift* in demand.



## Financial Data – Late Night Levy

The Licensing Team has interrogated the Licensed Premises register and has provided the following information as a guide to Members.

Total Number of Licensed Premises	1494
Total Number of Alcohol Premises	1288
Total Number of Alcohol Premises (Licensed from midnight)	857
Authorised on New Year's Eve/New Year's Day only	103
<b>Total gross amount that the Levy might raise (without any exemptions)</b>	<b>£741,478 pa</b>

The levy payable by each premises caught within the levy period is determined by the rateable value of the premises. The rateable value of each premises is set by the Valuation Office and the levy amount is set by Central Government. The number of premises in each band that authorise the alcohol from Midnight to 06:00 are:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily sell alcohol	E x 3 Multiplier applies to premises in category E that primarily sell alcohol
<b>Annual Levy charge</b>	<b>£299</b>	<b>£768</b>	<b>£1,259</b>	<b>£1,365</b>	<b>£1,493</b>	<b>£2,730</b>	<b>£4,440</b>
<i>Existing Annual Licence Fee</i>	<i>£70</i>	<i>£180</i>	<i>£295</i>	<i>£320</i>	<i>£350</i>	<i>£640</i>	<i>£1050</i>
<b>Number of Premises</b>	<b>109</b>	<b>523</b>	<b>141</b>	<b>26</b>	<b>54</b>	<b>2</b>	<b>2</b>

### Levy by time

The levy period can be set at any time from Midnight to 06:00 and the table below provides Members with a breakdown of premises by time (the figures are based on there being no exemptions).

Time	Number of Premises	Amount of Levy	Cumulative Amount
NYE only	103	£ 80,052	£ 80,052
Midnight to 12:59	327	£275,370	£355,422
01:00 to 01:59	276	£230,468	£585,890
02:00 to 02:59	107	£107,440	£693,330
03:00 to 03:59	19	£ 20,738	£714,068
04:00 to 06:00	7	£ 6,869	£720,937
24hrs	17	£ 20,541	£741,478

### Levy by Town

Cheshire Constabulary has provided data relating to the crime, disorder and anti-social behaviour linked to the late night economy. This data states that the towns of Crewe, Macclesfield, Nantwich and Wilmslow have the highest concentration of incidents. The table below provides Members with a breakdown of how much each of these towns might contribute to the levy (the figures are based on there being no exemptions). It is important to note that the Late Night Levy can only be implemented on a Borough wide basis.

Town	Number of Premises	Amount of Levy
Crewe	99	£ 95,296
Macclesfield	127	£102,550
Nantwich	48	£ 43,501
Wilmslow	49	£ 51,097
Total		£292,444

### Summary

Members should also note that the cost of implementing the levy can be deducted prior to the apportionment of the final figure (that being 30% to the Licensing Authority and 70% to Cheshire Constabulary). This would also include the cost of any legal challenge to the making of a levy. The process to be followed to implement the levy is comprehensive and extensive consultation should be conducted to reduce the risk of any challenge. Providing the information to date has resulted in the diversion from normal duties of over 240 officer hours.

Premises that do not use their authorisations after midnight are likely to take advantage of the free minor variation that must be provided to them if the levy were to be implemented (a minor variation would normally carry a fee of £89.00). It is impossible to estimate the number of premises that would chose to change their licence rather than pay the levy. However, to provide an indication, if 10% of the total premises licensed from midnight varied their licence this would be a reduction of approximately £80,000.

Similarly, it is impossible to estimate the number of premises that might fall into one of the exemption categories. For example, there are a number of hotels that have an authorisation to serve the public after midnight. However, they may choose to lose this ability and only serve residents after midnight and therefore be exempt from the levy if this category of exemption is adopted. Hotels also tend to have a higher than average rateable value and therefore pay one of the higher levy fees.

Members also need to consider the impact of such a charge on the late night economy as a whole including premises that may close as a result of the extra cost (and the impact this would have on employees etc) and any 'ancillary' businesses such as the Private Hire and Hackney Carriage trade.