

LICENSING COMMITTEE	AGENDA ITEM No. 3
12 DECEMBER 2013	PUBLIC REPORT

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LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS

RECOMMENDATIONS	
FROM :	Deadline date :
<ul style="list-style-type: none"> To note the contents of the report and to decide if a formal consultation should take place with a view to implement a Late Night Levy or Early Morning Restriction Order. 	

1. ORIGIN OF REPORT

- 1.1 The Police Reform & Social Responsibility Act 2011 introduced a number of changes to the Licensing Act 2003. Since 31 October 2012 two discretionary powers have been available to local authorities to deal with alcohol related crime and disorder, namely the Late Night Levy and Early Morning Restriction Order (EMROs).

2. PURPOSE AND REASON FOR REPORT

- 2.1 To note the contents of the report and consider whether to proceed with the formal consultation with a view to introducing a Late Night Levy and/or an Early Morning Restriction Order.
- 2.2 This is for the Committee to consider under its terms of reference No. 2.4.1.7 “to monitor and review policy relating to licensing matter and make recommendations to Cabinet or Council as appropriate in relation to any proposed changes”.

3. TIMESCALE

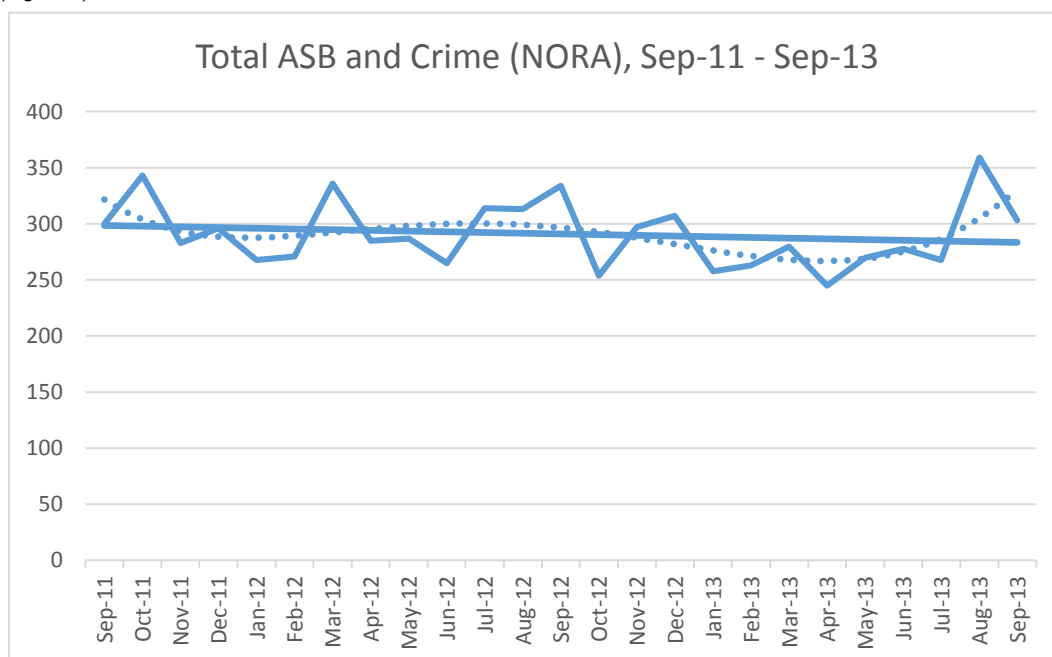
Is this a Major Policy Item/Statutory Plan?	NO
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4. BACKGROUND OF LATE NIGHT LEVY

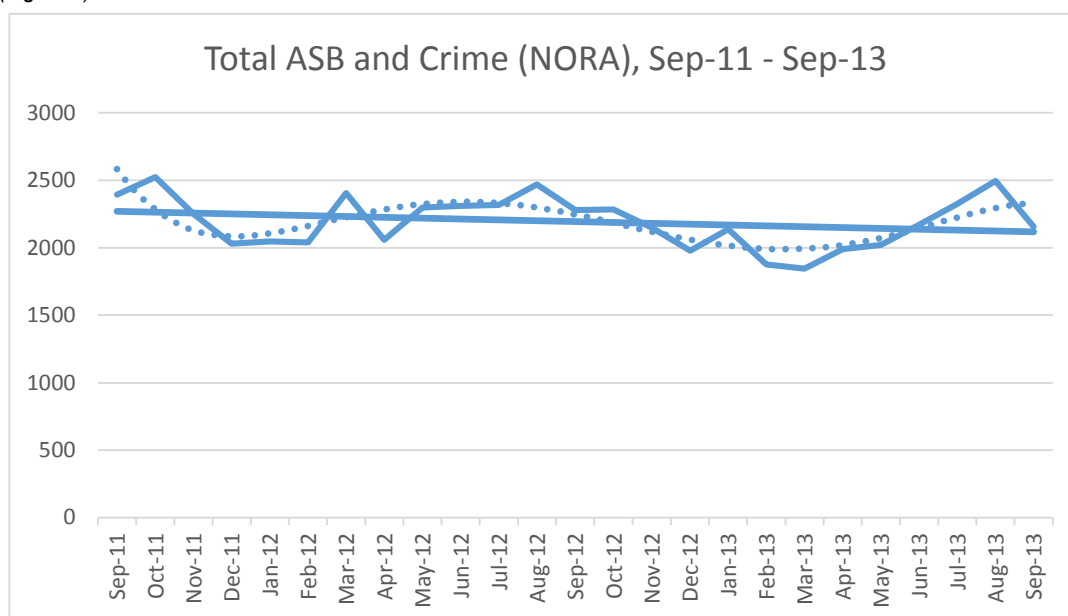
- 4.1 The decision to introduce the late night levy (“the levy”) is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s 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, regardless of the size and nature of the premises.
- 4.2 The licensing authority can deduct administrative expenses from the gross levy revenue. The police would then receive 70% of the net revenue, with the remaining 30% going to the licensing authority.
- 4.3 The licensing authority’s portion must be spent on services connected with the management of the night time economy that are targeted at dealing with alcohol related crime and disorder. The act does not specify how the Police’s portion of the levy is to be spent.
- 4.4 The amount of the levy will be set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee. The following charges will apply to the levy:

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 or exclusively sell alcohol	E X 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

- 4.5 The levy will not apply to Temporary Event Notices (TENS).
- 4.6 The majority of licensed premises in Peterborough are in Rateable Bands B & C. There are approximately 282 licensed premises that fall within the Late Night Levy supply period (12am to 6am). The levy could also capture premises that have standard opening hours that finish before midnight but have extensions on certain days e.g. midnight on St Patricks Day.
- 4.7 The majority of premises operating within the levy period would be paying an annual levy fee of £799 (Band B) or £1259 (Band C), in addition to their annual licence fee.
- 4.8 In an exercise carried out by officers approximately 32% of the 282 licensed premises are most likely to continue to operate within the late night supply period with the remaining premises possibly taking advantage of the free minor variation available to them significantly decreasing the estimated levy income.
- 4.9 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. Any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.
- 4.10 Due to lack of consisting capacity an additional staffing resource would be required in order to administer either scheme (LNL/EMRO). There would be an increased demand on Council and Police resources in terms of monitoring compliance and enforcement.
- 4.11 Analysis produced from the police crime recording database NORA (Neighbourhood Overview Results and Analysis) from Sept 2011 and Sept 2013 show a decline in ASB and crime reported in the city centre (Figure 1) as well as an overall decline of ASB and crime across the whole of the City (Figure 2).
(Figure 1)



(Figure 2)



4.12 Under its duties, the licensing authority has discussed the need for a Levy with the police and crime commissioner's office and the police superintendent of the Peterborough district area. The idea of a Levy at this time was not considered wholly appropriate by the aforementioned. Any decision to implement a Levy is required to be heavily evidenced based, both from a licensing authority point of view as well as police. It was thought that such a decision could potentially harm the city's prospects at its vision of a café culture.

5. POSSIBLE ADVANTAGES OF IMPLEMENTING A LEVY

5.1 Some of the costs of policing the late night economy will be recovered although unlike licensing authorities, there are no restrictions on the police portion of the levy revenue.

5.2 There could be an increase in business led best practice schemes due to the applicable reduction categories (a licensing authority can offer a reduction of 30% to premises that are in receipt of Small Business Rate Relief and have a rateable value of £12,000 or less. The reduction is only available to premises that supply alcohol for consumption on the premises and Membership of a suitable best practice scheme designed to reduce alcohol crime and disorder).

6. POSSIBLE DISADVANTAGES OF IMPLEMENTING A LEVY

6.1 The introduction of the Licensing Act 2003 led to more staggered opening hours in licensed premises. This somewhat reduces problems of nuisance and crime and disorder as there isn't large concentrations of drinkers leaving premises at the same times. As indicated above it is likely that licensed premises will vary their licence in order to avoid the levy, reverting back to more uniform closing hours.

6.2 The levy may produce a negative effect on the night time economy and has been the source of most of the objections raised in other parts of the country. If neighbouring authorities do not introduce the levy, businesses may not choose to locate or expand in Peterborough.

7. LATE NIGHT LEVY PROGRESS REPORT

7.1 At the time of writing this report only one local authority had implemented a Late Night Levy (Newcastle).

Milton Keynes followed with a recommendation by the licensing committee in September to adopt the LNL. However, this was then rejected at a meeting of the full council in October with much of the debate focussed around the potential high administrative costs for very little financial gain. Currently, Cheltenham, the City of London Corporation, Plymouth, Tameside and York are in the consultation process.

7.2 Research undertaken by Dr David Humphreys a Criminologist from the University of Cambridge on violent crime and flexible alcohol licesning in Manchester concluded that opening times have not

significantly increased under the current licensing regime. Average trading times were only up by 30-45 minutes on weekdays and 1 hour and 20 minutes at weekends.

7.3 In the study, published in the Journal Social Science and Medicine, Humphreys points to the recent announcement of a 'Late Night Levy' in Newcastle – where premises serving beyond midnight will have to pay additional fees – as the latest in a long list of initiatives to tackle alcohol-related crimes that lacks “any plans to rigorously investigate effectiveness”.

7.4 “Whilst the emphasis on change and improvement should be encouraged, the enthusiasm to act needs to be balanced with careful and systematic attempts to understand the implications and effectiveness of these interventions”, Humphreys said.

8. EARLY MORNING RESTRICTION ORDERS

8.1 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.

8.2 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 every year);
- Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold 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.

8.3 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.

8.4 If the licensing authority already has a CIP in its statement of licensing policy, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

8.5 If the licensing authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.

8.6 An EMRO is considered more of a last resort than other measures available under the Licensing Act 2003. The Section 182 Guidance suggests that before introducing an EMRO local authorities have regard to other measures such as the introduction of Cumulative Impact Zone, reviewing licences of specific problem premises, encouraging the creation of business led best practice schemes etc.

8.7 Since the introduction of the CI Policy in the Op Can Do area two licences, one for a take away only (new) and one restaurant (variation) has been granted, one licence has been refused at a licensing committee hearing following representations and two further applications are due to be heard by the licensing committee following representations.

8.8 Whilst the above details the evidential success of the CI Policy what it does not do is include the number of potential applications that have been deterred, based on the implied intentions of its applicants where the licensing team have informed them of the CI area.

9. POSSIBLE ADVANTAGES OF EMROS

- 9.1 It could reduce alcohol related crime, disorder and nuisance in problem areas, improving the area for residents and businesses.
- 9.2 It would control the time that the night-time economy ends, which could be useful for enforcement agencies to target an apportion resources. Conversely, the imposition of a terminal hour could see an increase in problems of nuisance and anti-social behaviour if large groups of people are leaving premises at the same time.

10. POSSIBLE DISADVANTAGES OF EMROS

- 10.1 Premises may choose to relocate to other areas, this could be bad for the economy in the EMRO area and may shift the problems elsewhere.
- 10.2 An EMRO can only stop the sale of alcohol, it does not close the premises so may not address all the problems in an area.
- 10.3 It may label an area as a crime hotspot, which could in turn increase the public's fear of crime, resulting in 'no go' areas and well run premises within these areas would be affected, although the problems in the area may not be attributable to them.

11. ANTICIPATED OUTCOMES

- 11.1 Decision/proposal on the formal consultation of a Late Night Levy
- 11.2 Decision/proposal on the formal consultation of an EMRO

12. REASONS FOR RECOMMENDATIONS

- 12.1 To explore the new powers conferred to the licensing authority in the form of LNLs and EMROs.

13. ALTERNATIVE OPTIONS CONSIDERED

- 13.1 Not to move forward with a formal consultation on a Late Night Levy at this time with a view to consider the Council's options in the future at the request of the Licensing Committee in partnership with the Police and Crime Commissioners office and Cambridgeshire Constabulary.
- 13.2 Future review of the Council's Cumulative Impact Policy in line with the review of the Statement of Licensing Policy to assess the viability of extending in to other problematic areas. Any such review must be supported by the appropriate evidence.

14. IMPLICATIONS

- 14.1 Financial - There are costs associated with public consultation
- 14.2 Legal - Legal Services will be required to ensure that the decision making process is implemented in accordance with the Licensing Act 2003, and will also be required to provide legal support throughout the preliminary investigations and any subsequent decisions made pertaining to the implementation of either and/or EMROs and LNLs.
- 14.3 Risk Assessment - This report contains no equality implications.

15. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Licensing Act 2003

Amended guidance issued under section 182 of the Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

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