

Swindon Borough Council

Licensing Committee

Thursday, 16 February 2012

Committee Room 6, Civic Offices (Anticipated meeting room)

At 5.30 p.m.

Conservative Councillors

Vera Tomlinson
(Chair)
Richard Hurley
(Vice-Chair)
Rex Barnett
Andrew Bennett
Alan Bishop
Michael Bray
Wayne Crabbe
Claire Ellis
Eric Shaw
David Wren

Labour Councillors

Junab Ali
John Ballman
Steve Wakefield
Robert Wright

Liberal Democrat Councillors

David Wood

Committee Officer: Shaun Banks (Telephone: 01793 463606)

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AGENDA

1. Apologies for Absence

2. Minutes (Pages 1 - 2)

To receive the minutes of the meeting held on 11th January 2012.

3. Declarations of Interest

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

4. Public Question Time

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

5. Appointment to Private Hire and Hackney Carriage Licensing Sub-Committee

To approve the appointment of Councillor Eric Shaw to the Private Hire and

Hackney Carriage Licensing Sub-Committee.

6. Revision of the Licensing Act 2003. (Pages 3 - 28)

7. Live Music Act 2012 (Pages 29 - 30)

Date of Despatch: 08 February 2012

Public Question Time - *Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.*

Access Arrangements – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

LICENSING COMMITTEE

WEDNESDAY, 11 JANUARY 2012

PRESENT:- Councillors Vera Tomlinson, Richard Hurley, Junab Ali, John Ballman, Rex Barnett, Andrew Bennett, Alan Bishop, Michael Bray, Wayne Crabbe, Claire Ellis, Steve Wakefield, David Wood, David Wren and Robert Wright.

An apology for absence was received from Councillor John Short.

17. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

18. Minutes

Resolved – That the minutes of the meetings held on 24th October and 14th November 2011, be confirmed and signed as a correct record.

19. Public Question Time

No public questions were received during the meeting.

20. Options for Re-introducing a Traditional Street Market to Swindon.

The Council's Licensing Officer submitted a report setting out the possibility of re-introducing a traditional street market to Swindon.

Resolved – (1) That the report be noted.

(2) That a Task Group comprising Councillors Junab Ali, Andrew Bennett, Alan Bishop, Wayne Crabbe, Claire Ellis, Richard Hurley, Eric Shaw and Vera Tomlinson be constituted to consider the reintroduction of a regular traditional street market to Swindon and make recommendations to this Committee on the feasibility of any such move.

(3) That, further to (2) above, the Task Group undertake a consultation with local businesses and other interested parties and consider the type, nature and location of any possible street market together with the factors which make street markets successful and sustainable and report their findings to this Committee.

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Report on a consultation launched by the Home Office concerning the implementation of area curbs on the late operation of licensed premises, within the amended framework of the Licensing Act 2003

Licensing Committee

Date: 16 February 2012

Author: Head of Licensing

Wards Affected: All

Purpose

- To consider government proposals for some of the principles to be attached to measures known as the Late Night Levy and Early Morning Restriction Orders.

Recommendation

Licensing Committee is asked : -

- To consider the consultation proposals and to agree a formal response.

1. Reasons

- 1.1 The Licensing Committee is the lead body in respect of policy matters, for the Licensing Act 2003.

2. Detail

- 2.1 Two significant additions to the Licensing Act have passed into law and are awaiting implementation. It is not the purpose of this report to explain those measures in detail or to initiate a wider policy discussion. The consultation is not about process [although there is some new information about that]. The bulk of the consultation focuses on matters such as full or partial exemptions, in the framing of the regulations.
- 2.2 The Late Night Levy provides an option to local authorities to impose a financial sanction on drinks licensed premises which trade beyond a locally defined watershed time. That time cannot be before midnight and would be the same for the whole of Swindon, if implemented.
- 2.3 A notable part of the proposal is that licensing authorities should not be permitted to impose a levy within the area of a Business Improvement District which has night time economy content. This is on the grounds that a contribution is already being made. In Swindon's case, the core of the town centre would be exempt, as it is covered by inSwindon. This would cast doubt on the potential value of such a measure overall.

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466113 or e-mail lstarling@swindon.gov.uk.

**Report on a consultation launched by the Home Office concerning the
implementation of area curbs on the late operation of licensed premises, within
the amended framework of the Licensing Act 2003**

Licensing Committee

Date: 16 February 2012

- 2.4 The potential financial benefit to local authorities is small but the financial risk is high. The potential financial benefit to the Police is also small but it comes without risk to them. Concerns have been expressed about that imbalance and about the high financial risk, particularly from litigation.
- 2.5 In essence, the more complicated the scheme of exemptions and partial exemptions, the greater the risk of legal challenge, based on perceived unfairness. Legal costs could easily dwarf any likely gross income.
- 2.6 Early Morning Restriction Orders provide what are in effect curfew powers, which would have the effect of over-riding all drinks licences in an area, setting a common closing time.
- 2.7 There is a great deal of flexibility built into the Early Morning Restriction Order regime. An area can be a whole borough or a few streets. There can be any number of zones, each with their own curfew time.
- 2.8 Again, the mechanism cannot be invoked before midnight but could be measured by intervals of 30 minutes or 15 minutes, where a case can be made.
- 2.9 The Late Night Levy mechanism is global, so it does not feed into the Localities agenda. Early Morning Restriction Orders do lend themselves to substantial community input, although they would likely have a significant strategic dimension as well.
- 2.10 The Home Office consultation document is attached as Appendix One.

Alternative Options

- It is open to the committee to make representations on the consultation or to decline to comment.

Risk Management

Financial and Procurement Implications

There are no direct financial implications arising from the report. If there are later reports around implementation, the financial considerations will be set out in those reports.

Legal / Human Rights Implications Mechanisms are in place to ensure that all new laws are compliant with the Human Rights Act.

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466113 or e-mail lstarling@swindon.gov.uk.

Report on a consultation launched by the Home Office concerning the implementation of area curbs on the late operation of licensed premises, within the amended framework of the Licensing Act 2003

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Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

The exercise of licensing powers by the licensing authority relates particularly to the commitment to reduce crime and the fear of crime.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.
- No external parties have been consulted. It is open to anyone to respond to the consultation document.

Background Papers and Appendices

- Appendix One Home Office consultation paper

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466113 or e-mail lstarling@swindon.gov.uk.

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DEALING WITH THE PROBLEMS OF LATE NIGHT DRINKING

A CONSULTATION ON SECONDARY LEGISLATION FOR THE LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS



Home Office

CONTENTS

Ministerial Foreward.....3

1. Introduction.....4

2. About this consultation.....5

Part I - EMROs8

3. Process.....8

4. Exemptions.....8

Part II - The late night levy10

5. Process.....10

6. Exemptions and reductions to the levy.....10

7. Licensing authority levy revenue.....14

Additional sections.....15

8. Impact Assessment.....15

9. About You.....15

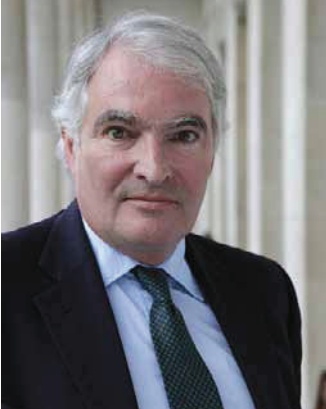
10. Confidentiality and Disclaimer.....15

11. Checklist17

Annex A - EMRO process map19

Annex B - Late night levy process maps20

MINISTERIAL FOREWARD



I believe that problems in the night-time economy should be addressed locally. The Government is committed to ensuring that the police and local authorities are given the right tools to address the alcohol-related problems in their area, whilst promoting a vibrant night-time economy to benefit business and the community that they serve. The late night levy and the extension of Early Morning Restriction Orders (“EMROs”) will enable local authorities to achieve this. If local communities are concerned about premises that are open into the early hours of the morning and causing problems, then they should be able to respond flexibly. The majority (64%) of all violence occurs in the evening or at night and one-fifth of all violent incidents take place in or around a pub or club. By extending EMROs so that they can be applied from midnight, local authorities will have an additional tool to address problem areas in the night time economy.

Where there is a vibrant late night economy, with premises remaining open into the early hours, then the local authority should have the flexibility to charge for a contribution towards any additional policing that this generates. Tax payers should not simply be left to pick up this cost. People who enjoy a night out often visit a variety of premises and it is appropriate that the costs are shared between these businesses.

This consultation seeks views on the details of the regulations that will implement these policies. In particular, it asks for views on what categories of premises should enjoy exemptions and reductions under both measures. For example, I do not wish to unfairly penalise premises which are not part of the wider late night economy. These include, for example, hotels and B&Bs which serve only to guests, and the consultation therefore proposes these as one of the categories of exemption from both measures.

I would very much welcome views on these and other proposals on how the late night levy and EMROs will be implemented. Overall, our intention is that both measures will empower local communities to act to achieve a more viable night time economy.

A handwritten signature in black ink, appearing to read 'Henley'.

Lord Henley

Minister of State for Crime Prevention and Antisocial Behaviour Reduction

1. INTRODUCTION

- 1.01 This consultation is about two measures in the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) that will be implemented through regulations: Early Morning Restriction Orders (“EMROs”) and the late night levy (“the levy”).
- 1.02 Alcohol-related crime and disorder is a serious problem for many of our communities. The promised “café-culture” from later drinking hours has not materialised. In 2010/11, almost one million violent crimes were alcohol-related and almost half of surveyed violent crime victims believed the offender to be under the influence of alcohol. The police are fighting an expensive battle against alcohol-related crime and disorder. The Coalition Programme for Government recognised these problems and contained a set of commitments to tackle alcohol misuse, especially late at night. The necessary changes to primary legislation have been made through the 2011 Act.
- 1.03 EMROs will help licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. An EMRO is a power introduced by the previous Government (which has not yet been commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days. The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. However, we believe that some types of premises should not be subject to an EMRO. Section 4 of this consultation considers exemptions to the EMRO power that will apply to all EMROs.
- 1.04 The levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether to adopt for their areas. The licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night. Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy.
- 1.05 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. Section 6 of this consultation considers the available categories of premises to which exemptions and reductions will apply. The government is also keen to promote local and business-led initiatives. Many businesses successfully work together in schemes like Best Bar None, Business Improvement Districts (BIDs) and Community Alcohol Partnerships. Authorities and business communities might wish to consider these schemes as possible alternatives or complements to EMROs or the levy. Section 6 also considers this issue.
- 1.06 To inform this consultation, working groups and meetings were held with representatives from the police, the licensed trade, best-practice schemes, licensing authorities and the hospitality industry.
- 1.07 A consultation-stage Impact Assessment is attached to this consultation. This will be updated following the consultation if necessary.

2. ABOUT THIS CONSULTATION

Scope of the consultation

Topic of this consultation:	<p>This consultation seeks views on certain aspects of EMROs and the late night levy.</p> <p>EMROs</p> <ul style="list-style-type: none">• Process of adopting an EMRO.• Categories of business which will be exempt from any EMRO. <p>Late night levy</p> <ul style="list-style-type: none">• Process of adopting the levy.• Categories of business which individual licensing authorities may choose to exempt from, or afford a reduction in relation to, the late night levy.• The kinds of services a licensing authority may fund with the 30% of net levy receipts it may retain from the net levy revenue.
Scope of this consultation:	<p>Regulations will be made under powers in the 2011 Act and Licensing Act 2003 in relation to the late night levy and EMROs. The Government intends to commence both powers, but would like to hear views on the above and on the impact assessment before preparing the regulations.</p>
Geographical scope:	<p>England and Wales</p>
Impact assessment (IA):	<p>A consultation stage IA is included with the consultation document. A small firm impact test is included</p>

Basic Information

To:	We are keen to hear from everyone who will be affected by the two measures, including; members of the public to whom alcohol is supplied; those affected by alcohol-related crime; those that own or work in pubs, clubs, supermarkets and shops; best practice scheme representatives; criminal justice agencies; licensing authorities; and trade associations representing those who sell alcohol.
Duration:	The consultation runs for 12 weeks from 17th January to 10th April.
Enquiries:	Alcohol.Consultation@homeoffice.gsi.gov.uk
How to respond:	<p>Information on how to respond to this consultation can be found on the Home Office Website at http://www.homeoffice.gov.uk/about-us/consultations. Responses can be submitted online through the Home Office website or by post by sending responses to:</p> <p>Home Office Drugs and Alcohol Unit 4th Floor Fry Building 2 Marsham Street London, SW1P 4DF</p>
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Getting to this stage:	The two powers were consulted on as part of the ‘Rebalancing the Licensing Act’ consultation (Summer 2010) and introduced in the Police Reform and Social Responsibility Act (September 2011).
Previous engagement:	The government has already consulted a number of key partners prior to publishing this consultation. As well as engagement as part of the ‘Rebalancing the Licensing Act’ consultation, officials have held pre-consultation working groups with stakeholders from the on and off trade; police and local authorities; best practice schemes and the voluntary sector.

PART 1 EARLY MORNING RESTRICTION ORDERS

3. PROCESS

3.01 The 2011 Act allows an EMRO to be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities can apply these orders to areas where they consider that restricting the late night supply of alcohol is appropriate to promote the licensing objectives. Before this power is commenced, regulations must be made.

3.02 The regulations will prescribe details of the process for making an EMRO and the kinds of premises that will be exempt from an EMRO. Consultation respondents are asked to consider the proposed process map in Annex A.

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

Yes

No

Don't know

If no, please explain what else is needed

4. EXEMPTIONS TO EMROS

4.01 EMROs are designed to address recurring problems with alcohol-related crime and disorder in specific areas. The licensing authority will be able to decide during which hours the EMRO will apply, whether it is applied every day or on particular days; whether it will run for a limited or unlimited period; and whether it will apply to whole or part of the licensing authority's area. In each case, the decision will be based on what is appropriate for the promotion of the licensing objectives¹. There are some types of premises

¹ Licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

which should not be subject to an EMRO, wherever it is applied. Some businesses, wherever they may be located, do not contribute to alcohol-related crime and disorder. For example, a hotel may only serve alcohol to its guests who are staying overnight. As such, the 2011 Act enables the Secretary of State to make regulations which prescribe exemptions to an EMRO by reference to particular kinds of premises or particular days.

4.02 Many licences have additional authorisations on New Year's Eve to stay open later than usual. The government proposes that EMROs will not apply between midnight on 31st December and 6am on 1st January of each year.

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

Yes – the EMRO should apply on New Year's Eve

No – the EMRO should not apply on New Year's Eve

Neither agree nor disagree

Don't know

Please give reasons for your answer

4.03 Local discretion in setting the EMRO area is paramount, and the intention is to have only a few nationally prescribed exemptions. Some premises may need to vary their licence (to, for example, add a condition via the minor variations process) before an exemption is applicable to them.

4.04 EMROS will operate to restrict alcohol sales even when a Temporary Event Notice (TEN) is otherwise in effect. Section 172 of the Licensing Act 2003 enables the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. Primary legislation includes

provision that, unless the licensing hours order provides otherwise, the EMRO will not be effective to prevent alcohol sales in a period to which the extended hours order applies.

4.05 The proposed exemptions cover some types of premises where the only customers during the

relevant period will be members or their guests; or those who stay overnight; or those who attend for a performance. We also propose that there is an exemption for community premises which have demonstrated that they do not need a Designated Premises Supervisor (DPS). We propose that the following exemptions will apply to every EMRO:

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Community premises	Those premises that have successfully applied to remove the mandatory DPS requirement.
Casinos and bingo halls with a membership scheme	Premises licensed to provide these facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

Agree – these categories of premises should be exempt from EMROs
 Disagree – these categories of premises should not be exempt from EMROs
 Neither agree nor disagree
 Don't know

Please give reasons for your answer, specifying any exemptions that you disagree with

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

Yes
 No
 Don't know

If yes, please specify which other types of premises and give reasons.

PART 2 THE LATE NIGHT LEVY

5. PROCESS

5.01 The levy will allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off-trade), throughout the licensing authority's area, which are authorised to sell or supply alcohol in the time period set by the licensing authority. This can be any time between midnight and 6am. Section 172 of the Licensing Act 2003 permits the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. The Government intends to ensure that this will not result in some premises inadvertently becoming liable to pay the late night levy. The levy will not apply to TENs. The 2011 Act makes provision for the Government to prepare draft regulations before the levy scheme is commenced.

5.02 Regulations will prescribe details of the process for adopting the late night levy. Consultation respondents are asked to consider the proposed process maps in Annex B.

5.03 Prior to making a decision to implement the levy, it is intended that the licensing authority will have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce the levy in its area. If so, the licensing authority must formally consult the PCC, the police, licence holders and others about its decision to introduce the levy. The consultation should ask whether it needs to apply any exemptions or discounts to the levy and how it will apportion net levy revenue between the police and licensing authority. The licensing authority will have the final decision in all of these areas.

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

Yes
No
Don't know

If yes, do you have any suggestions on how this process should operate?

6. EXEMPTIONS AND REDUCTIONS TO THE LEVY

6.01 There are some types of premises which licensing authorities may consider should not make a contribution towards late night police costs through the late night levy. To enable local discretion, the levy will allow licensing authorities to select exemptions or reductions that they consider should apply in their area. It is proposed that the following types of business are available as exemptions for licensing authorities to adopt:

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Restaurants	<p>Premises that have condition(s) on their licence that have the effect of making clear their status as restaurants run on a permanent, more formal basis. These could, for example, include conditions which require that, between midnight and 6am:</p> <ul style="list-style-type: none"> (i) customers are shown to their table; (ii) food is provided in the form of substantial table meals that are served and consumed at the table; (iii) premises primarily serve meals to those eating on them, and (iv) alcohol is not be supplied to, or consumed on the premises by, any person other than those who are taking substantial table meals and where the consumption of alcohol by such persons is ancillary to taking such meals.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Casinos Bingo Halls	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
Community Amateur Sports Clubs (CASCs)	Those premises that have a relief from business rates by virtue of being a CASC (definition found in Schedule 18 of the Finance Act 2002.)
Community premises	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

Agree
Disagree

Please give reasons for your answer, specifying any exemptions that you disagree with

Business Improvement Districts

6.02 Business Improvement Districts (BIDs, established under the Local Government Act 2003) are a defined area within which businesses pay a fee in order to fund improvements within their boundaries and can prove valuable to business communities. An increasing number of late night or licensed trade BIDs are being established. Some of these schemes may fulfil the purpose of the levy, by raising contributions towards late night services, without the need for local authority intervention. These schemes should be actively encouraged. It is proposed that licensing authorities are able to grant an exemption to those paying a levy as part of a BID where the authority is satisfied that the aims meet a satisfactory crime and disorder focus.

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

Agree – licensing authorities should be able to exempt Business Improvements Districts
Disagree – licensing authorities should not be able to exempt Business Improvement Districts
Neither agree nor disagree
Don't know

Members' clubs

6.03 Many private members' clubs operate under 'Club Premises Certificates' (CPCs). Alcohol cannot generally be supplied under a CPC for profit or to the general public. Some licensing authorities may consider that private member's clubs in their area should not make a contribution to late night enforcement costs. Should clubs be exempt from the late night levy, the police revenue in the average licensing authority area from the levy will be reduced by approximately 10%.

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

Yes
No
Don't know

Please give reasons for your answer

Small Business Rate Relief

6.04 Small Business Rate Relief offers business ratepayers that meet certain criteria the opportunity to receive reductions on their rates bills. The criteria vary slightly in England and Wales but, in general, businesses are typically eligible if they occupy only one property and their rateable value is below a certain level. This may apply, for example, to small local pubs.

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

Please give reasons for your answer

New Year's Eve

6.05 Some premises may have a one-off late night authorisation on their licence to celebrate the New Year. On the one hand, it could be argued that the ability to host one-off special occasions will not be hindered by the late night levy. Before the levy begins in any area, premises will be able to make a free minor variation to their licence to reduce their hours. On special occasions, they may use a TEN to authorise the sale of alcohol.

6.06 On the other hand, an exemption for those premises whose only late night authorisation is for New Year will benefit many premises.

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

Agree – there should be an exemption for New Year's Eve

Disagree - there should not be an exemption for New Year's Eve

Neither agree nor disagree

Don't know

Reductions for best practice schemes

6.07 Licensing authorities may also wish to use the late night levy to promote and support participation in other business-led best practice schemes. These schemes encourage businesses to join together to address some of the negative effects of selling alcohol. The following schemes are recommended as available reduction categories:

Members of a locally accredited Best Bar None scheme
Members of a locally accredited Pubwatch, Clubwatch or Shopwatch scheme. The discount can only apply to one of the above three schemes. Criteria to be an applicable pubwatch scheme: <ul style="list-style-type: none"> • The local authority is satisfied that the scheme has clear aims and objectives which are subject to a formal statement of intent or a constitution and that it has demonstrated that its members are actively working to reduce crime and disorder. • Membership is open to all licensed premises within the geographic area. • The scheme has a Chair person and/or Coordinator who is responsible for maintaining verifiable records of membership.
Those premises which pay an annual individual contribution to a Community Alcohol Partnership in their area. This definition does not include subsidiaries of companies that pay a contribution on a national level.
Premises that pay a levy in a Business Improvement District (established under the Local Government Act 2003) where the authority is satisfied that the aims meet a satisfactory crime and disorder focus

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Other local best-practice schemes

6.08 The best practice schemes referred to in Question 11 are locally accredited schemes that are part of a national network. It has been suggested that some schemes have been created locally without any national accreditation. Groups of businesses may join together and fund late night services or address specific community problems. Regulations could grant licensing authorities the power to give discounts to schemes that they recognise as effective. Schemes would have to meet readily recognised and measurable benchmarks in order to be capable of qualifying for a discount.

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

6.09 We propose that there is a 10% discount to the levy for every relevant best practice scheme (up to a maximum of 30%). This is in recognition that many businesses are members of multiple schemes.

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

6.10 There may be other types of premises that should not be required to contribute fully towards the levy, for example, community-run pubs or others with an established community and social character.

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

- Yes
- No

If yes, please state what you think these should be and how this type of premises should be defined.

7. LICENSING AUTHORITY LEVY REVENUE

7.01 There are many different types of local authority-funded services which make the late night economy a more welcoming place to do business. Some examples include taxi marshals, late night town wardens and street cleaning services. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. This section considers whether there should be any restrictions on how authorities spend this money.

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

Restrictions on funded activities

7.02 It is intended that the proportion of net levy revenue retained by licensing authorities (a

maximum of 30%) is used to fund services which tackle alcohol-related crime and disorder, such as taxi marshalling and ‘booze buses’ that provide assistance to those who otherwise might become victims or offenders. This would not extend to the wider management of the night time economy. For example, it would include the clean-up of the after-effects of alcohol-related crime and disorder, such as broken glass and public urination, but not general clean-up activities, such as the collection of waste from outside fast food restaurants

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

Please state whether you think the types of services should be limited to preventing and tackling alcohol related crime and disorder; or should extend to both preventing and tackling alcohol related crime and disorder and management of night time economy?

8. IMPACT ASSESSMENT

8.01 An Impact Assessment for late night levy secondary legislation is attached. Consultation respondents are encouraged to comment on this document.

CONSULTATION QUESTION 17:

If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 18:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

9. ABOUT YOU

9.01 Please indicate in what capacity you are responding to this consultation:

Licensing authority
Member of the public
Police officer
Person involved in licensed trade/club premises
Other please specify

Police officers only: Which Police Force are you from?

9.02 Licensed trade only: Please tick one of the following boxes which would best describe you/ your organisation

Individual
Members’ Clubs
Micro company (1 – 9 employees)
Small business (10-49 employees)
Small – medium enterprise (50-249 employees)
Large company (over 250 employees)

Licensing officer only: Which Licensing Authority are you from?

Member of the public/Other only: Which Local Authority or London Borough are you from?

10. CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under

the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

GOVERNMENT CODE OF PRACTICE ON CONSULTATION

The Consultation follows the Government's Code of Practice on Consultation the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office consultation co-ordinator, Adam Mcardle. Please DO NOT send your response to this consultation to Adam Mcardle. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation. The co-ordinator can be emailed at: **Adam.Mcardle2@homeoffice.gsi.gov.uk** or alternatively you can write to him at:

Adam Mcardle, Consultation Coordinator
Home Office
Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

11. CHECKLIST

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 17:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 18:

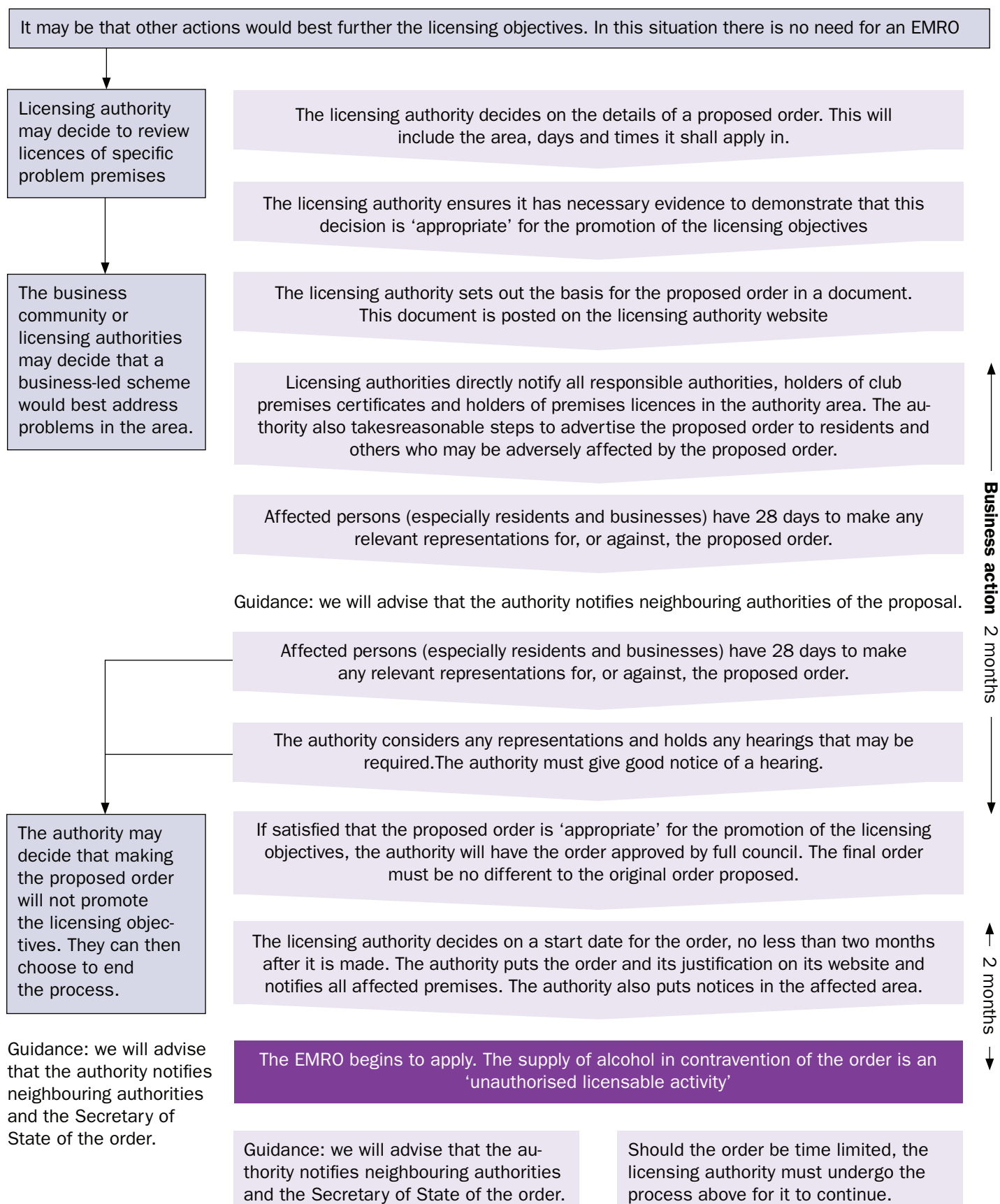
If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 19:

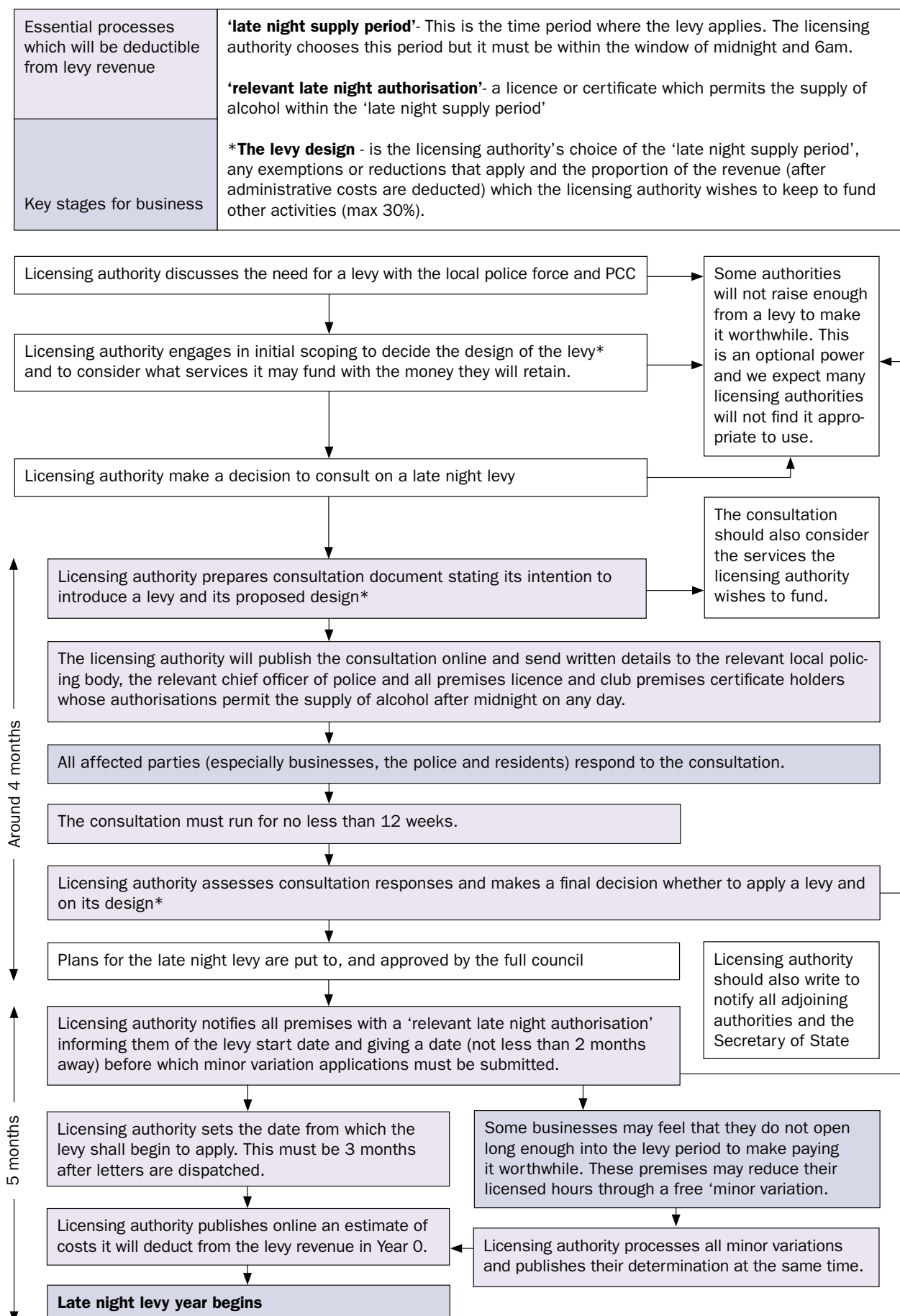
If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

ANNEX A - EMRO PROCESS MAP

A situation arises where there is need to restrict the late night supply of alcohol in a particular area. The licensing authority can decide, possibly at the suggestion of the public or the PCC, to make an EMRO.

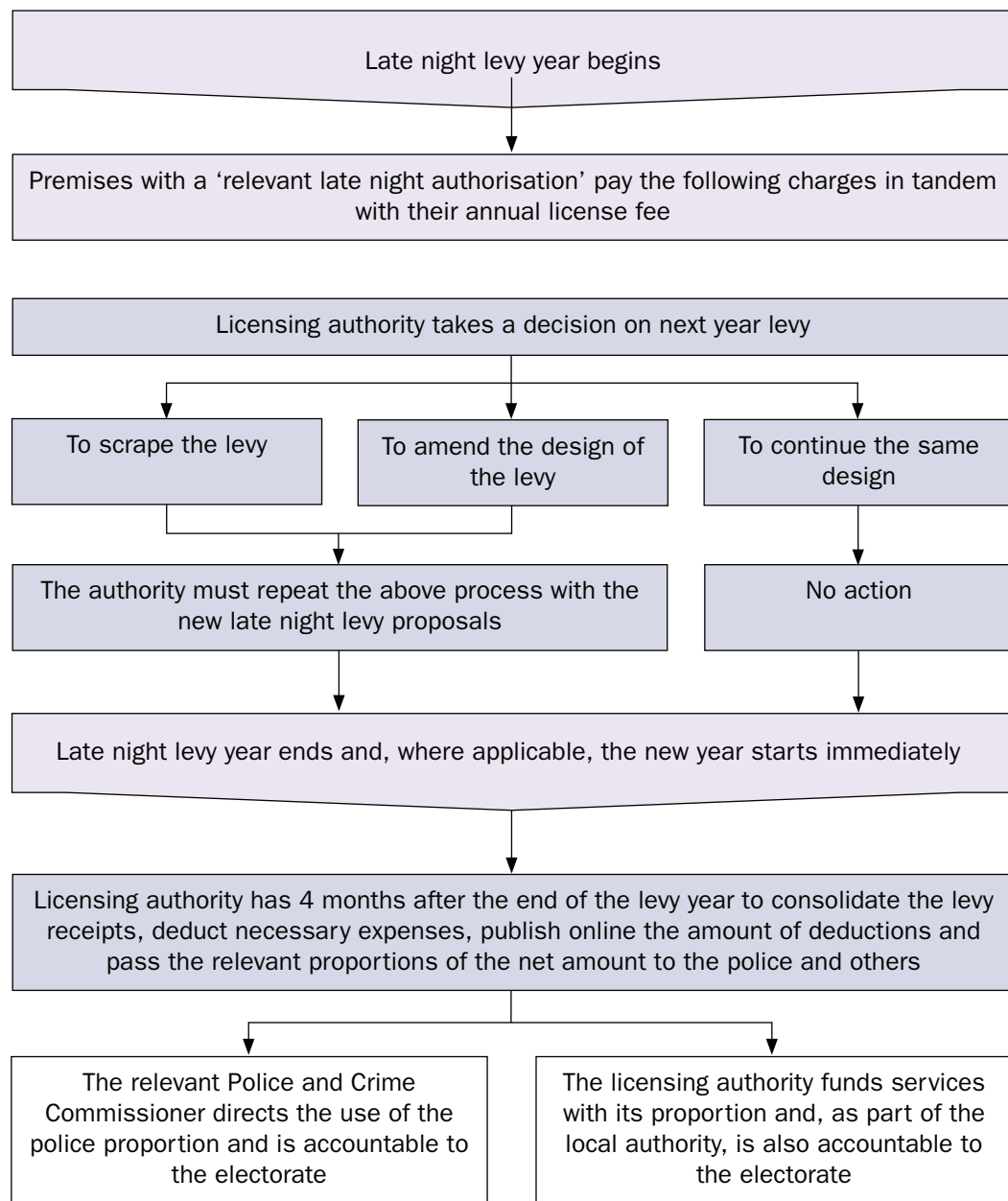


ANNEX B - LATE NIGHT LEVY PROCESS MAPS - (Part I - Introduction)



ANNEX B - LATE NIGHT LEVY PROCESS MAPS

CONTINUED - (Part II - Levy year)





Home Office

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To view online visit:

<http://www.homeoffice.gov.uk/about-us/consultations/late-night-drinking>

Report on the forthcoming Live Music Act 2012

Licensing Committee

Date: 16 February 2012

Author: Head of Licensing

Wards Affected: All

Purpose

- To brief Members on a reform of the Licensing Act, which will liberalise the regulation of some regulated entertainment.

Recommendation

Licensing Committee is asked : -

- To note the contents of the report.

1. Reasons

- 1.1 A limited reform of the Licensing Act 2003 is about to receive Royal Assent. This report is intended to provide an outline of the changes which this will bring about.

2. Detail

- 2.1 Members were advised on 25 October 2011 that government had launched a consultation on wholesale removal of regulated entertainment from the framework of the Licensing Act. Initial comments on the many hundreds of representations received are expected soon. The subject of this report is quite separate from those proposals and the reform has in this case come about as a result of a Private Member's Bill, which has attracted cross-party support.
- 2.2 The Live Music Act 2012 seeks to remove small-scale entertainment from the routine application of the Licensing Act but significant constraints will remain in place and the safety net of formal intervention will be retained.
- 2.3 In broad terms, where live music is provided at somewhere licensed to sell alcohol, in front of an audience not numbering more than 200 people, there will be no routine requirement to make a separate application for live music.
- 2.4 In Swindon, this will have little impact, as entertainment normally goes hand in hand with live music on premises licences and the cost of applying for a licence is the same, whether there is one authorisation or several.

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.

Report on the forthcoming Live Music Act 2012

Licensing Committee

Date: 16 February 2012

- 2.5 A watershed of 23:00hrs will apply. Entertainment after that time will still require to be licensed.
- 2.6 Unlike the case with the government proposals as they currently stand, important safeguards will remain.
- 2.7 Where live music is found to create a nuisance, it will still be open to any responsible authority or interested party to bring a review of the licence. A licensing panel will then be able to set aside the routine exemption and any restrictions or conditions which they put in place as part of their determination will have the force of law.
- 2.8 A few small terraced public houses or poorly insulated public houses are the only venues which are not able to provide live music currently and if they make use of the exemption and generate a nuisance, that remedy is available.

Alternative Options

This report is for information only

Risk Management

Financial and Procurement Implications

There are no financial implications arising from the report, which is for information only.

Legal / Human Rights Implications There are no Human Rights Act or legal considerations arising from this report.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

This reform has relevance for the corporate commitment to build a thriving and sustainable town centre economy.

Consultees

- None.
- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

Background Papers and Appendices

- None

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466118 or e-mail lstarling@swindon.gov.uk.