

**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.

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- 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.

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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