

**MUNICIPAL YEAR 2012/2013 REPORT NO.**

**MEETING TITLE AND DATE:**

Licensing Committee  
10 December 2012

**REPORT OF:**

Director of Environment

**CONTACT OFFICER:**

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Agenda – Part:	Item:
<p><b>Subject:</b> <b>New Provisions – Licensing Act 2003</b></p> <p><b>Wards: All</b></p>	

**1. EXECUTIVE SUMMARY**

- 1.1 This report sets out recent proposals for the Late Night Levy, Early Morning Restriction Order and Locally Set Fee provisions within the Licensing Act 2003.

**2. RECOMMENDATION**

- 2.1 To consider whether the Council should begin the process of establishing a Late Night Levy within the borough.
- 2.2 To consider whether the Council should consider use of an Early Morning Restriction Order.

### **3. THE NEW PROVISIONS**

- 3.1 The legal provisions, in respect of the Late Night Levy, Early Morning Restriction Order and Locally Set Fees were introduced to the Licensing Committee at the Licensing Master-class provided by Philip Kolvin QC on Friday 23 November 2012.

#### **LATE NIGHT LEVY**

- 3.2 The Late Night Levy, under the Licensing Act 2003, is a new tax that the Council, as licensing authority, can choose to introduce in respect of premises selling alcohol between midnight and 6am.
- 3.3 The decision to introduce the levy is for the Council, as licensing authority, to make.
- 3.4 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.
- 3.5 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply.
- 3.6 The net levy revenue must be split between the licensing authority and the metropolitan Police Service. The licensing authority must pay at least 70% of the net levy revenue to the police.
- 3.7 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it.
- 3.8 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.

#### **EARLY MORNING RESTRICTION ORDER**

- 3.9 The Early Morning Restriction Order ('EMRO'), under the Licensing Act 2003, is a new curfew that the Council, as licensing authority, can choose to introduce in respect of premises selling alcohol between midnight and 6am.
- 3.10 The Home Office Guidance confirms that :

“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 which the EMRO applies. The licensing authority should consider the potential burden

that would be imposed on licence holders as well as the potential benefits in terms of promoting the licensing objectives.

The Council, as licensing authority, should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. Other measures that could be taken instead of making an EMRO may include: introducing a Cumulative Impact Policy; reviewing the licences of specific problem premises; and encouraging the creation of business-led best practice schemes.”

- 3.11 On 1 April 2012 the Council introduced 4 Cumulative Impact Policy Areas (Edmonton, Enfield Highway, Enfield Town, and Southgate) in which no new licences and no extensions of existing alcohol licences will generally be granted after 11pm.

### **LOCALLY SET FEES**

- 3.12 With effect from April 2013, the Home Office is expected to publish regulations empowering the Council, as licensing authority, to set our own fees under the Licensing Act 2003.
- 3.13 The individual fees will likely be subject to a national cap.
- 3.14 In setting our fees we will have to seek to secure that the income from fees will equate, as nearly as possible, to the aggregate of both direct and general costs.
- 3.15 Direct costs are those referable to the discharge of the function to which the fee relates and will include: processing costs; representation costs; hearing costs; and associated ‘on costs’ for those officers.
- 3.16 General costs are those referable to the discharge of functions in respect of which no fee is otherwise chargeable and will include: enforcement in respect of offences and closures costs; training costs; policy development costs; meeting costs; and public consultation costs.

## **4. ALTERNATIVE OPTIONS CONSIDERED**

Not applicable

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 At the Licensing Master-class on Friday 23 November 2012, Philip Kolvin QC advised that the Council, as licensing authority, may prefer to address any existing revenue deficits by way of properly setting our own fees rather than by way of introducing a Late Night Levy.
- 5.2 The Licensing Committee is invited to indicate whether it considers that it is appropriate for the Council, as licensing authority, to exercise its power to introduce a Late Night Levy within the borough at this time.

**6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

**6.1 Financial Implications**

Not applicable

**6.2 Legal Implications**

Not applicable

**6.3 Property Implications**

Not applicable

**7. KEY RISKS**

Not applicable

**8. EQUALITIES IMPACT IMPLICATIONS**

Corporate advice has been sought in regard to equalities and an agreement has been reached that, on this occasion, an equalities impact assessment is not necessary.

**9. IMPACT ON COUNCIL PRIORITIES**

**9.1 Fairness for All**

Not applicable

**9.2 Growth and Sustainability**

Not applicable

**9.3 Strong Communities**

Not applicable

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Not applicable

**11. HEALTH AND SAFETY IMPLICATIONS**

Not applicable

**12. PUBLIC HEALTH IMPLICATIONS**

Not applicable

**Background Papers**

None