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**Steve Atkinson** MA(Oxon) MBA FIoD FRSA  
Chief Executive



Date: 21 February 2012

Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

To: **Members of the Licensing Committee**

Mr K Nichols (Chairman)	Mr MT Mullaney
Mr MS Hulbert (Vice-Chairman)	Mr LJP O'Shea
Mr PR Batty	Mrs J Richards
Mr SL Bray	Mrs H Smith
Mr MB Cartwright	Mrs S Sprason
Mr DS Cope	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **LICENSING COMMITTEE** in the Council Chamber, Council Offices, Argents Mead on **TUESDAY, 28 FEBRUARY 2012 at 6.00 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

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

Denise Bonser  
Democratic Services Officer

**A G E N D A**

1. MINUTES (Pages 1 - 2)  
To confirm the minutes of the meeting held on 26 October 2011, copy attached.
2. DECLARATIONS OF INTEREST  
To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.**
3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES  
To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011 (Pages 3 - 20)  
Report of the Deputy Chief Executive (Community Direction) attached.
5. HOME OFFICE CONSULTATION ON EARLY MORNING RESTRICTION ORDERS (EMRO) & LATE NIGHT LEVY (THE LEVY) (Pages 21 - 84)  
Report of the Deputy Chief Executive (Community Direction) attached.

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### LICENSING COMMITTEE

26 OCTOBER 2011 AT 6.30 PM

PRESENT: MR K NICHOLS - CHAIRMAN

Mr SL Bray, Mr P Batty, Mr MB Cartwright, Mr M Hulbert, Mr M Mullaney, Ms H Smith and Mrs S Sprason.

Officers in attendance: Mr D Bonser, Mr Mark Brymer and Mr M Rice.

212 APOLOGIES

Apologies for absence were submitted on behalf of Mr D Cope and Mrs J Richards.

213 MINUTES (L1)

On the motion of Mr Hulbert seconded by Mr Bray, it was

RESOLVED – the minutes of the meeting held on 24 November 2010 be confirmed.

214 DECLARATIONS OF INTEREST

No interests were declared at this stage.

215 CONSULTATION TO DEREGULATE REGULATED ENTERTAINMENT (L2)

The Principal Licensing Officer outlined the proposals of the Department for Culture Media and Sport to deregulate Schedule 1 of the Licensing Act 2003 and the impact it would have upon the Council. The Committee considered the proposed responses outlined in the report. Mr Cartwright asked for clarification on question 1 as to the Council's position of voluntary organisations. The Principal Licensing Officer confirmed that they would still be exempt and agreed to amend the wording to reflect this.

Mr Batty entered the meeting at 6.40pm.

It was moved by Mr Nichols, seconded by Mr Bray and

RESOLVED – the Principal Licensing Officer respond to the Department for Culture Media & Sport as outlined in the report with the amendment to question 1 as agreed.

(The meeting closed at 6.52pm)

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Chairman

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LICENSING MEETING – 28 FEBRUARY 2012

**REPORT TITLE – POLICE REFORM & SOCIAL RESPONSIBILITY ACT 2011**

**REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

**WARDS AFFECTED: 'ALL WARDS'**

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Hinckley & Bosworth  
Borough Council

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1. **PURPOSE OF REPORT**

- 1.1 This report outlines amendments to be made to the Licensing Act 2003 (“the Licensing Act”) as a result of the Police Reform and Social Responsibility Act 2011 (“the Act”).
- 1.2 The purpose of the report is to inform Members of forthcoming changes and the likely impacts on both officer and Member workload . The report also provides Members an opportunity to indicate their initial views prior to a formal Committee decision later in the year.
- 1.3 Attached to the report is a table of the principle amendments contained in the Act (Appendix 1).

2. **RECOMMENDATION**

- 2.1 Members are asked for their initial views on the changes prior to a formal committee decision later this year.

3. **BACKGROUND TO THE REPORT**

- 3.1 The Act is the result of a Home Office consultation carried out in the summer of 2010 titled “Rebalancing the Licensing Act”.
- 3.2 The intention of the Act is to rebalance the Licensing Act in favour of local communities by creating a new licensing regime with local authorities and the Police better able to respond to local residents’ concerns.
- 3.3 The Licensing Act 2003 requires any person carrying on licensable activity to have authorisation to do so. Licensable activity is the sale or supply of alcohol, providing regulated entertainment, and the supply of late night refreshment.

**Summary of Main Changes to the Licensing Act and Statutory Guidance**

- 3.4 No commencement dates have been announced for the 2011 Act. The dates provided are indicative based on the latest information from the Home Office (as of January 2012) and may change as further details are announced.

3.5 The changes are covered in more detail in the following sections of this report but can be broadly summarised in seven categories, with other minor amendments outside of these categories, which are:

**a) Licensing Policy**

- Changes will be made to the statutory guidance to Licensing Authorities that reduce the evidential requirement to implement Cumulative Impact Policies.
- Changes to the guidance will also enable Licensing Authorities to create staggered closing times, create “zones” in their areas to govern closing times, and to impose fixed closing times in designated areas.
- Possible Date for the revised guidance – 6th April 2012

**b) Licensing Authority as a Responsible Authority**

- This change will allow the Licensing Authority to make representations to applications and review licences.
- Possible Commencement Date – 6th April 2012.

**c) Responsible Authorities, Interested Parties and Decision Making**

- These changes cover definitions of responsible authority and interested parties.
- The threshold of evidence needed for decisions on licence applications by licensing panel is being lowered.
- possible Commencement Date – 6th April 2012

**d) Temporary Event Notices (TENs)**

- These changes cover amended limits for TENs, environmental health officers being able to object, and a revised system for TENs.
- Possible Commencement Date – 6th April 2012

**e) Licence Fees**

- The licensing authority will be able to set fees on a cost recovery basis.
- Possible Commencement Date – October 2012.

**f) Early Morning Restriction Orders (EMROs)**

- EMROs enable the licensing authority to restrict the times that alcohol can be sold anywhere in the borough.
- Home Office Consultation End Date – 10th April 2012.
- Possible Commencement Date – October 2012.

**g) Late Night Levy**

- The late night levy is an optional additional charge that can be applied to some or all premises selling alcohol late at night. The majority of the income will be paid to the Police.
- Home Office Consultation End Date – 10th April 2012.
- Possible Commencement Date – October 2012.

#### **4. Licensing Policy**

- 4.1 The statutory guidance is to be amended with various changes that will affect what can be included in local licensing policies.

#### **5. Licensing Authority as a Responsible Authority**

- 5.1 The licensing authority itself is to become responsible authority. This will enable representations and review applications to be made by licensing officers on behalf of the Licensing Authority.
- 5.2 Only applications that receive relevant representations are determined by a licensing panel, so this change enables the Licensing Authority to decide what applications should be determined by a panel even when no other relevant representations made.
- 5.3 The options for licensing officers making representations include:
- (a) Making no representations.
  - (b) Making representations only where there have been enforcement issues (such as complaints or compliance problems with existing conditions).
  - (c) Making representations for any application that has policy considerations (such as applications in within the special saturation policy areas).
  - (d) Making representations for all applications on their merits.
- 5.4 Members are asked to consider and comment on this change, with a view to informing officers what Members expectations will be so that appropriate procedures can be developed.
- 5.5 Members are advised that there are resource implications both in terms of officer workload, and also Member's workload to attend additional panels and determine the possible resulting increase of applications with representations.

#### **6. Responsible Authorities, Interested Parties and Decision Making**

- 6.1 Changes are being made to several definitions in the Licensing Act that are likely to come in to force from April 2012.
- 6.2 The Primary Care Trust (PCT) will become a responsible authority. It is uncertain on what grounds the PCT could make representations for individual cases at this stage. The Home office has announced their intention is for health to be a licensing objective, but it is currently not a licensing objective and is not expected to be anytime soon.
- 6.3 The definition of interested party is being removed. There will no longer be a "vicinity" test, and any person can make a representation to any application.

The new test is to be a person “likely to be affected by the application”.

- 6.4 The requirement for Licensing Authorities to only attach ‘necessary’ conditions is being changed to ‘appropriate’ conditions when making determinations.
- 6.5 The statutory guidance will be amended to provide licensing authorities with advice on how to determine if an action is ‘appropriate’. Licensing authorities will be required to demonstrate that their actions are ‘appropriate’ to promote the licensing objectives in that the actions are suitable for the particular condition, occasion or place. This provides some flexibility to consider the effects of the decision on the promotion of the objectives. The current requirement to demonstrate that actions are ‘necessary’ requires that licensing authorities demonstrate that no lesser steps would suffice for the promotion of the licensing objectives in their area which is a greater evidential hurdle.

## **7. Temporary Event Notices (TENs)**

- 7.1 The system for TENs is to change in several ways, and is likely to be from April 2012. Firstly, there will be two types of TENs, which will be:
- a) Standard TENs - no later than 10 working days before the event begins, and
  - b) Late TENs - no earlier than 9 working days before the event and no later than 5 working days before the event begins
- 7.2 All four licensing objectives will be relevant to TENs, and the Environmental Health responsible authority will be able to object to TENs. This is an extension from the current position where only the Police can object if they feel the TEN would undermine the crime prevention licensing objective.
- 7.3 Where an objection is received to a Standard TEN then the existing option of a licensing panel rejecting the application/TEN remains. In addition the Licensing Authority may also impose conditions on the TEN, where those conditions are already included on a premises licence for the same premises. If the applicant does not agree for the conditions, then it will have to be determined by a Licensing Panel.
- 7.4 It is very possible that this will lead to an increase in TENs going to licensing panels, which are required to be determined within 7 working days from the last date of objection.
- 7.5 When an objection is received to a Late TEN, it is automatically rejected without the need for a licensing panel determine it.

The statutory limits on the duration of events are also being increased as follows:

- a) A single event can last up to 168 hours (7 days), which is increased from the current 96 hours (4 days).
- b) The total number of days for a single premises to be used under a TEN will be 21 days, which is increased from the current 15 days.



## 8 Licence Fees

- 8.1 The licensing authority will have the power to set fees on a cost-recovery basis. The costs may also include the costs of acting as other responsible authorities under the Act, e.g. the environmental health responsible authority.
- 8.2 Existing licence fees introduced in 2005 are set nationally. They did not cover Hinckley & Bosworth Borough Council's costs at that time, and there have been no increases in licence fees since.
- 8.3 The Home Office will be consulting on proposals for fees in early 2012. It is probable that the existing fee structure will be retained, and licensing authorities will be able to set the amount of each fee, but subject to a maximum cap.
- 8.4 The current fee structure for premises licences is based on the rateable value of a business, and is shown below:

Rateable Value Bands	Rateable Value	Application Fee	Annual Fee
A	0 - £4300	100	70
B	£4301 - £33000	190	180
C	£33001 - £87000	315	295
D	£87001 - £125000	450	320
E	£125001 and above	635	350

In addition, a multiplier will be applied to town centre pubs (those in Rateable Value Bands D & E), where they are used primarily in the business of selling alcohol.

Rateable Value Band	Application Fee	Annual Fee
D	£900 (£450x2)	£640 (£320x2)
E	£1905 (£635x3)	£1050 (£350x3)

- 8.5 A full assessment of costs and necessary fee changes will be carried out when further details become known on what costs may be recovered, and confirmation is given about what fee structure will be used.
- 8.6 Members are advised that many of the new provisions will have increased cost implications for Hinckley & Bosworth Borough Council. Most of these will probably be commenced and implemented before fees can be set on a cost recovery basis.
- 8.7 A further change is to be introduced that will allow the licensing authority to suspend a premises licence for non-payment of the annual fee, which we welcome.

## **9. Early Morning Restriction Orders (EMRO)**

- 9.1 The Licensing Authority will be able to make an EMRO(s) specifying that alcohol may not be sold either in the whole Borough or parts of the Borough during the early morning on specified days (which could be every day of the week). The EMRO must not begin earlier than midnight or end later than 6am and may be for a limited or unlimited period.

An EMRO will have effect on all premises licences, club certificates and TEN's in the area, whether granted before or after the order(s) come into effect.

- 9.2 The Licensing Authority may only bring in an order if it considers it 'appropriate' for the promotion of the licensing objectives. The Act sets out the consultation process and procedures to be followed by the Licensing Authority prior to bringing in an order.
- 9.3 It is important for members to note that an order will only stop the supply of alcohol and not the provision of regulated entertainment or late night refreshment.

## **10. Late Night Levy (The Levy)**

- 10.1 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.
- 10.2 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. The government is also keen to promote local and business-led initiatives. Many businesses successfully work together in schemes like Pubwatch, Best Bar None and Business Improvement Districts (BIDs).

## **4. FINANCIAL IMPLICATIONS [CB]**

- 4.1 Two of the proposed changes if brought in would have financial implications; licence fees being set on a cost recovery basis and a late night levy. If licence fees were set to recover the costs incurred this would prove beneficial for the Authority as currently the service is budgeted to cost £43k for the year 2012/13.
- 4.2 More information would be required to provide an estimate of any income that may be received if a late night levy was introduced. Factors to be considered would be what exemptions might be in place and whether licence holders change their opening hours in order to avoid paying the levy.

5. LEGAL IMPLICATIONS [MR]

5.1 Contained within the body of the report.

6. CORPORATE PLAN IMPLICATIONS

6.1 Safer & Healthier Borough: to help ensure that people are provided with a safer and welcoming night time economy.

7. CONSULTATION

7.1 The report at this stage is for information purposes. A consultation will be carried out on the late night levy, EMRO's and licensing authority fees when secondary legislation is produced.

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Compliance with Central Government Policy.	Ensure new legislation is correctly adopted and implemented.	MB

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 There should be no equality issues arising from the licensing legislation being updated as full equality impact assessments have been undertaken by the Home Office prior to the legislation becoming law in 2011.

9.2 There will be no direct rural implications from any part of the Police Reform & Social Responsibility Act 2011.

10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications

- Human Resources implications
  - Planning Implications
  - Voluntary Sector
- 

Background papers: Home Office – Dealing with the problems of Late Night Drinking  
Police Reform & Social Responsibility Act 2011

Contact Officer: Mark Brymer ext 5645  
Executive Member: Cllr Mr. David Cope

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

	Amendment	Comment / Actions
1	The licensing authority itself becomes a responsible authority, able to make representations and apply for reviews in its own right.	This right needs to be delegated to licensing officers to exercise in the council constitution. It is suggested that when officers consider representations are appropriate or it is appropriate to withdraw those representations, the Chairman of the committee is notified on an advisory basis in advance.
2	Individual members of licensing authorities to no longer be interested parties.	Councillors will no longer be able to make representations unless they fall within the definition of “other persons” living or working in the vicinity of the premises and who are likely to be affected by the application, unless they have been – as currently – been asked to make representations on a residents behalf.
3	The Primary Care Trust (PCT) becomes a responsible authority, able to make representations and apply for review of a premises licence or club premises certificate.	Guidance documents and website pages will need to be amended accordingly; need to identify who in the PCT should receive copies of applications; need to check that PCT receive copies of applications.
4	The definition of “interested parties” has been deleted.	Amend Statement of Licensing Policy and Guidance booklets.
5	Notices of applications are to be advertised in a prescribed manner to bring it to the attention of “other persons” – persons who live, or are involved in a business, in the licensing authority area and who are likely to be affected by the application.	This potentially increases the number of people who may make representations about licence applications, with the possibility of more representations leading to more contested applications. The current test of whether someone “lives or works in the vicinity of the premises” can usually be determined by officers, but whether someone under the new test “is likely to be affected by the application” may be better resolved at the hearing itself.
6	Regulations must require the licensing authority to advertise applications including reviews in a prescribed form to bring it to the attention of persons who live, or are	This will increase officer costs and time in advertising the applications. Additionally the licensing authority must decide how best to achieve this and how we determine who “are likely to be

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

	involved in a business, in the licensing authority area and who are likely to be affected by the application.	affected” and who will not.
7	The decision test is changing from “necessary” for the promotion of the licensing objectives to “appropriate” for the promotion of the licensing objectives.	
8	Environmental Health Officers (Pollution) will be able to object to temporary event notices (TENS)	Licensing will have to make sure that EHO’s are notified (or receive copies of) TENS.
9	Objections to TENS may be made if they would undermine a licensing objective.	This is a welcome extension from the current position where the police can only object if they feel the TENS would undermine the crime prevention licensing objective. It may potentially increase the EHO workload and the number of sub-committee hearings. Our guidance booklets, applications and website will need to be amended.
10	Counter notices where permitted levels exceeded for the number of TENS allowed in a calendar year must also be sent to EHO’s.	Slight increase in licensing officer workload.
11	A LSC may impose conditions on a TEN following a hearing where (a) it is appropriate to do so and (b) that those conditions are already included on a premises licence/club premises certificate for those premises and (c) it would not be inconsistent with carrying out the licensable activities under the TEN. For example, a licence condition to use door supervisors can be extended to include the period covered by the TEN.	May require more compliance checks to ensure conditions on TENs have been met. Will require slightly more time in preparing reports for LSC as the relationship between the TEN and the premises licence/club premises certificate will have to be included as well.
12	A separate statement of conditions applicable to the TEN must be given to the premises user, police and EHO’s.	There will be a slight increase in officer time to produce these.

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

13	<p>There will be different routes to give a TEN:</p> <p>(a) electronically or in writing no later than 10 working days before the event begins or</p> <p>(b) electronically to the licensing authority, no earlier than 9 working days before the event and no later than 5 working days before the event begins (“a late TEN”) or</p> <p>(c) in writing to the licensing authority, police and EHO no later than five working days before the event begins and to at least one of those no earlier than nine working days before the event begins (“a late TEN”).</p>	<p>Late TENs are probably going to become the norm, which makes it easier for premises users but may put more pressure on officers. This will be quite complicated and information leaflets etc will need amending.</p>
14	<p>Officers must give a counter notice where an objection notice has been received from the police or EHO in respect of a late TEN.</p>	<p>This is likely to increase the workload on officers.</p>
15	<p>In addition to the current 50 standard TENs that a personal licence holder can give a year, and the five standard TENs a non-personal licence holder can give a year, they will also be able to give a further ten and two late TENs respectively.</p>	<p>This may lead to an increase in the number of TENs received.</p>
16	<p>TENs will be able to last for a maximum of 168 hours (1 week), rather than the existing 96 hours (4 days), and premises can be used for up to 21 days a year (rather than the existing 15 days).</p>	<p>Most TENs only apply for a few hours, so extending them to 168 hours is only likely to be of assistance at Christmas when premises may want to have a whole week of extended time.</p>
17	<p>The police and EHOs will have three working days in which to object to a TEN as opposed to the current two working days for the police.</p>	

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

18	<p>Fines for persistently selling alcohol to children will increase from £10,000 to £20,000.</p> <p>The period that offenders can be ordered to cease selling alcohol by a constable or trading standards officers in those circumstances is varied from a maximum 48 hours to a minimum of 48 hours and a maximum of 336 hours (14 days).</p>	<p>It is well-documented nationally that courts do not give out anywhere near the current maximum penalties, and the closure notices are seldom used.</p>
19	<p>Where it is appropriate for the promotion of the licensing objectives, a licensing authority may make an early morning alcohol restriction order to prohibit the sale or supply of alcohol between midnight and 6 am as specified in the order.</p> <p>The order can specify the days, times, or parts of the authority's areas to which it applies, and may be on a temporary basis. They may be varied or revoked, and may contain exemptions in prescribed cases or circumstances.</p>	<p>An order may not be made unless the proposal has first been duly advertised and representations considered in accordance with statutory regulations. There is a need for considerable public consultation before an order can be made.</p>
20	<p>Premises licences and club premises certificates must be suspended no less than two working days after the annual fee not being paid within 21 days of it being due. Receipts must be issued within two working days.</p>	<p>There will need to be compliance checks where the fee remains unpaid. Need to ensure the invoicing and income process is more efficient. There will be an increase in work between October and December when most fees will become due.</p>
21	<p>Subject to ministerial approval, the licensing authority will have the power to set certain fees on a cost-recovery basis. The costs may also include the costs of acting as other responsible authorities under the Act, e.g. planning authority.</p>	



Appendix 1 - The Licensing Act 2003  
 Summary of principle amendments contained in the Police Reform and Social  
 Responsibility Act 2011

22	<p>Licensing policy statements can now be reviewed every five years instead of every three years, such period starting from a date of the licensing authority's choosing which must be stated within the policy statement. A five year period means subsequent periods ending 6 January 2016.</p>	<p>This will represent a saving in not having to review policies as frequently, providing the risk of ensuring policies are relevant and up-to-date is managed. The Act allows existing policies determined and published for the three year period starting 7 January 2011 to last for five years if the policy states it should last for five years.</p>
23	<p>Further relevant offences have been added to those that may potentially</p> <p>disqualify people from holding personal licences:</p> <ul style="list-style-type: none"> <li>- failing to co-operate with preliminary breath tests for drink-driving.</li> <li>- attempting to commit any relevant offence.</li> <li>- Conspiracy to commit any relevant offence.</li> <li>- Common law offence of conspiracy to defraud.</li> </ul> <p>Once the section is commenced, this applies to personal licences granted or renewed before, on or after that date, and to offences committed before, on or after the commencement date.</p>	
24	<p>The Secretary of State must carry out a review of the amending provisions contained in the Act, and set out the conclusions in a report to Parliament, as soon as reasonably practicable five years after all the amendments have been brought into force.</p>	

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

**NEW PROVISIONS INTRODUCED IN POLICE REFORM & SOCIAL  
RESPONSIBILITY ACT 2011**

1	<p>late night levy can be applied in our local authority area, after considering:</p> <p>(a) policing and other costs for reducing or preventing alcohol-related crime and disorder between midnight and 6 am.</p> <p>(b) and the desirability of raising revenue in accordance with regulation, of which not less than 70 per cent must be applied to the local policing body.</p>	
2	<p>The late night levy must apply to the whole of the licensing area, subject to any time restrictions of premises liable to pay for it; any “permitted exemption categories” (if any), and “permitted reduction categories” (if any).</p>	
3	<p>The licensing authority may determine the time of day between midnight and 6 am during which the late-night levy may apply, which must be the same throughout a “payment year”.</p>	<p>“Payment years” in relation to premises licences and club premises certificates are to be determined in regulations. This may</p> <p>either be linked to the annual fees under ss55(2) and 92(2), LA03 or may be potentially be determined at the same time as the authority decides a levy is to apply within its area.</p>
4	<p>The licensing authority may decide upon “applicable exemption categories” that apply in its area from the levy for the levy year.</p>	<p>This suggests licensing authorities can change the premises exempt from the levy from year to year. The applicable exemption categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.</p>

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

5	The licensing authority may decide upon “applicable reduction categories” that apply in its area from the levy for the levy year.	The levy is the amount prescribed by, or the amount calculated in accordance with, regulations to be made. The applicable reduction categories will be set out in regulations for the licensing authority to decide whether any particular category applies in its area.
6	Regulations will specify how payments are collected, administered and enforced, including times for payment. They may also set out how to deal with cases where relevant late-night premises cease or become liable to pay the levy during the payment year, including where an early morning alcohol restriction order has been implemented during that year.	This may inhibit licensing authority flexibility to organise its own affairs in the collection of the levy payments.
7	Failure to pay the levy may be recovered as a civil debt and lead to suspension of the premises licence/club premises certificate under the new provisions dealing with non-payment of the annual fee.	
8	Regulations will specify the relevant expenses that may be deducted in calculating the “net amount” of levy payments, may determine the amounts to be taken into account in calculating the net amount, and may determine the periods to which payments or deductions should be attributable. Not less than 70 per cent of the “net amount” must be paid to the local policing body and the remainder applied in accordance with regulations. (Other regulations may amend the specified 70 per cent).	

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

9	<p>“Relevant expenses” to calculate the “net amount” means licensing authority administration expenses, particularly the costs of deciding whether to implement, end or amend the levy, and in collecting and enforcing levy payments.</p>	<p>Regulations will also specify the times at which payments are to be made by the licensing authority to the local policing body.</p>
10	<p>Licensing authorities must publish before the beginning of the levy year a statement of its estimated permitted deductions, and after the end of the levy year a statement of the net amount.</p>	<p>Licensing authorities can decide how to publish those statements.</p>
11	<p>The licensing authority may decide the date on which the levy is to start; the time period to which it applies; any permitted exemption or reduction categories; and the proportion of the net amount of levy payments to be paid to the relevant local policing body.</p>	
12	<p>Decisions on the introduction, variation or revocation of a levy will be subject to regulations that in particular must require consultation with the local policing body and chief officer of police; holders of relevant late night authorisations; and other prescribed persons. Notices of such decisions must be published.</p>	
13	<p>Regulations may also set out the matters of which the licensing authority must be satisfied before deciding that a levy is to apply in its area.</p>	<p>This suggests the link between alcohol and crime and disorder may not be the only consideration, or that crime and disorder has to trigger specific levels before a levy could be introduced.</p>
14	<p>Late night authorisations may be varied before the start of the levy year without any fee, so as to exempt them from having to pay the levy.</p>	<p>Premises subject to a levy may amend their licence/certificate for free prior to the levy year coming into force. There is no guidance at this stage as to how far in advance such</p>

Appendix 1 - The Licensing Act 2003  
Summary of principle amendments contained in the Police Reform and Social  
Responsibility Act 2011

		applications may be made, the cost to the licensing authority in the (unlikely) event of a contested application, and if the application seeks to take advantage of amending the licence (such as adding licensable activities to it) at the same time as reducing the hours to avoid the levy.
15	The regulations listing “permitted exemption” and “permitted reduction” categories may relate to taking part in particular arrangements such as taking part in Pubwatch schemes, or particular descriptions of premises, such as hotels or casinos.	There may be complexities around any individual premises that for example fall within the permitted reduction category
16	Regulations must specify what the amount of reduction to be enjoyed by those in the permitted reduction categories, or how the reduced amount is to be calculated, which must be the same for all holders of late night authorisations in that category for a levy year.	

**FURTHER AMENDMENTS**

1	The power to designate an alcohol disorder zone under the Violent Crime Reduction Act 2006 is repealed.	
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LICENSING COMMITTEE 28 FEBRUARY 2012

**REPORT TITLE – Home Office Consultation on Early Morning Restriction Orders (EMRO) and Late Night Levy (the Levy)**

**REPORT OF DEPUTY CHIEF EXECUTIVE [COMMUNITY DIRECTION]**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**WARDS AFFECTED: [ 'ALL WARDS' ]**

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1. **PURPOSE OF REPORT**

- 1.1 To advise the Licensing Committee of a consultation on secondary legislation for the late night levy and early morning restriction orders (EMRO).

2. **RECOMMENDATION**

- 2.1 Members are asked to provide their views on the consultation to be considered as part of the response from this council as Licensing Authority.

3. **BACKGROUND TO THE REPORT**

- 3.1 On 17th January 2012 the Home Office published a consultation document entitled "Dealing with the Problems of Late Night Drinking" - a consultation on secondary legislation for the late night levy and early morning restriction orders. The consultation period ends on 10th April 2012.

**The Proposal**

- 3.2 The Government believe that problems in the night time economy should be addressed locally, and 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 businesses and the community that they serve.
- 3.3 The proposed late night levy and the extension of Early Morning Restriction Orders ("EMROs") is proposed by Government as a tool which could be used by local authorities to achieve this aim. 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.
- 3.4 Where there is a vibrant late night economy, with premises remaining open into the early hours, then the local authority will have the flexibility to charge for a contribution towards any additional policing that this generates, rather than taxpayers picking up this cost. People who enjoy a night out often visit a variety of premises and it is seen appropriate that the costs are shared between these businesses.

- 3.5 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, the Government do not wish to unfairly penalise premises that are not part of the wider late night economy. These include, for example, hotels and Bed & Breakfasts (B&B), which serve only to guests, and the consultation therefore proposes these as one of the categories of exemption from both measures.
- 3.6 The Government would welcome views on these and other proposals on how the late night levy and EMROs will be implemented. Overall, the intention is that both measures will empower local communities to act to achieve a more viable night time economy.

### **Detail of the Proposal**

- 3.7 This proposal is about how two measures in the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) will be implemented through regulations, these being: Early Morning Restriction Orders (“EMROs”) and the late night levy (“the levy”).
- 3.8 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, with the police having to fund and provide resources to fight alcohol-related crime and disorder.

A copy of the consultation document is attached at Appendix 1, and the impact assessment is attached at Appendix 2.

The consultation document also contains a process map that licensing authorities will have to follow to implement EMRO’s or the late night levy.

The main questions being asked in the Consultation can be summarised as:

- a) Should alcohol sales on New Years Eve be exempt from any EMRO or levy?
- b) What types of premises should be exempt from an EMRO or levy?
- c) In what circumstances should there be an exemption or reduced rate for the levy? An example given is for Business Improvement Districts being exempt.
- d) What activities should licensing authorities be able to fund from the retained proportion of the levy not allocated to the Police? Examples given include taxi marshalling and street cleaning.



## **Early Morning Restriction Orders (EMRO)**

- 3.9 Where it is appropriate for the promotion of the licensing objectives, a licensing authority may make an Early Morning Restriction Order to prohibit the sale or supply of alcohol between at a time specified between midnight and 6 am as specified in the order.
- 3.10 The order can specify the days, times, or parts of the authority's areas to which it applies, and may be on a temporary basis. They may be varied or revoked, and may contain exemptions in prescribed cases or circumstances.
- 3.11 If an order is made, the time specified in the order would override the times on any existing or future licences, and any Temporary Event Notices. (e.g. If the order specifies 3am as the terminal hour for alcohol sales, a premises licensed for alcohol until 4am will have to stop selling alcohol at 3am after the order is made).
- 3.12 A consultation will have to be carried out locally, and responses considered before an order could be made by Hinckley & Bosworth Borough Council.
- 3.13 Members should note that an EMRO can only be made by full Council as the licensing authority, and can not be delegated to the Licensing Committee or to officers.

## **LATE NIGHT LEVY**

- 3.14 The levy is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Whether or not to implement the levy will be left entirely at the discretion of the licensing authority based on the situation in their local area.
- 3.15 After costs of administering the levy, the revenue generated will be split between the Police (minimum 70%) and the licensing authority (maximum 30%). The amount payable will be determined by the Home Office.
- 3.16 The Home Office is introducing this power because the problems caused by the late night economy are particularly costly for the taxpayer as there is an increased need for a police presence on the streets late at night. The Home Office believes it is right that those businesses which profit by selling alcohol in the night time economy contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.
- 3.17 Licensing authorities may decide that a late night levy is to apply in its area, after considering:
  - a) policing and other costs for reducing or preventing alcohol-related crime and disorder between midnight and 6 am
  - b) and the desirability of raising revenue in accordance with regulation, of which not less than 70 per cent must be applied to the local policing body after relevant expenses are deducted.

- 3.18 The late night levy must apply to the whole of the licensing area, subject to any time restrictions of premises liable to pay for it; any “permitted exemption categories”, and “permitted reduction categories”. The licensing authority may determine the time of day between midnight and 6 am during which the late-night levy may apply.
- 3.19 The licensing authority will be able to determine exemptions where licence holders do not have to pay the levy, or pay a reduced rate. Licence holders will also be allowed to vary their licences before the levy is introduced, to enable them to reduce their permitted hours and avoid paying the levy.

The proposed amounts for the Late Night Levy are shown below

<b>Rateable Value Bands</b>	<b>Rateable Value</b>	<b>Existing Annual Fee</b>	<b>Proposed Levy Charge</b>
A	0 - £4300	70	<b>299</b>
B	£4301 - £33000	180	<b>768</b>
C	£33001 - £87000	295	<b>1259</b>
D	£87001 - £125000	320	<b>1365</b>
E	£125001 and above	350	<b>1493</b>

#### 4. FINANCIAL IMPLICATIONS [CB]

- 4.1 At this stage of the process there are no financial implications arising directly from this report. Further analysis would need to be undertaken to ascertain whether the proposals would actually generate more income for HHBC, or if the various exemptions on offer would result in any increase being negligible.

#### 5. LEGAL IMPLICATIONS [MR]

- 5.1 Contained within the body of the report.

#### 6. CORPORATE PLAN IMPLICATIONS [RP]

- 6.1 Safer & Healthier Borough: to help ensure that people are provided with a safer and welcoming night time economy.

#### 7. CONSULTATION

- 7.1 This report is for information only at this stage. The Principal Licensing Officer will be responding to the consultation after listening to members views. Once the government have produced regulations on the late night levy and early morning restriction orders those potentially affected will be consulted.

#### 8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Negative Press	Ensure that the council carry out a full consultation with all businesses that may be affected if it decides to implement an EMRO or the levy.	Mark Brymer

## 9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

- 9.1 Those premises eligible for an exemption, where the levy is applied, will need to pursue the exemption with the relevant licensing authority. They may need to amend their licence to meet the criteria of the applicable category. This will incur a minimal cost.

### **In areas which adopt the late night levy:**

- 9.2 Participants in the late night economy, local residents and businesses, where the levy is applied, stand to benefit from the levy as a result of a better funded local police force and local authority services.  
Any business with a permanent authorisation to sell alcohol within the 'late night supply period', designated by the licensing authority, will be affected by the late night levy. The supply of alcohol is authorised on a permanent basis by premises licences and club premises certificates.  
Licensing authorities which choose to adopt the levy will be affected, but they will be able to deduct the costs they incur in establishing and administering the levy. They will benefit from increased revenue to fund late night services.

### **In areas which adopt an Early Morning Restriction Order:**

- 9.3 Participants in the late night economy, local residents and businesses, where an EMRO is applied, stand to benefit from a safer late night economy.  
Any business selling alcohol in an EMRO area at the relevant times, where an EMRO is applied, will no longer be allowed to sell alcohol at that time.
- 9.4 Licensing authorities which choose to use an EMRO will incur a small administrative cost in applying the power. Licensing authorities receive income through licence fees for the costs they incur in discharging their duties under the Licensing Act 2003.

9.5 The police, where an EMRO or the levy is applied, will bear a cost inasmuch as their participation in the licensing authority decision to adopt the levy or an EMRO. They will benefit from increased revenue (minimum of 70% of net levy receipts). They will bear a cost in enforcing an EMRO.

9.6 Late night alcohol buyers (customers) and other late night businesses may be affected by a constrained choice of alcohol retailers and a change in the nature of the late night economy.

The government state that this is unlikely for two reasons:

1. The levy charge is proportional to size of business and, as such, we only expect a small proportion of businesses to reduce their licensed hours to avoid the levy.

2. The Government have suggested provision under option 3 to exempt those country premises, within designated rural settlements with fewer than 3,000 residents, which serve as the 'last' public house in a village. This will help ensure that the levy does not risk closing down the only choice of premises.

## 10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

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Background papers: Home Office – Dealing with the problems of Late Night Drinking and Impact Assessment.  
Police Reform & Social Responsibility Act 2011.

Contact Officer: Mark Brymer ext 5645  
Executive Member: Cllr Mr. David Cope

**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

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# 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', written in a cursive style.

**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

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

## Basic Information

<b>To:</b>	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.
<b>Duration:</b>	The consultation runs for 12 weeks from 17th January to 10th April.
<b>Enquiries:</b>	<b>Alcohol.Consultation@homeoffice.gsi.gov.uk</b>
<b>How to respond:</b>	Information on how to respond to this consultation can be found on the Home Office Website at <a href="http://www.homeoffice.gov.uk/about-us/consultations">http://www.homeoffice.gov.uk/about-us/consultations</a> . Responses can be submitted online through the Home Office website or by post by sending responses to:  Home Office Drugs and Alcohol Unit 4th Floor Fry Building 2 Marsham Street London, SW1P 4DF
<b>Additional ways to become involved:</b>	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.
<b>After the consultation:</b>	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

<b>Getting to this stage:</b>	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).
<b>Previous engagement:</b>	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 objectives<sup>1</sup>. There are some types of premises

<sup>1</sup> 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.

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:

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

Name	Definition
<b>Premises with overnight accommodation</b>	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.
<b>Theatres and cinemas</b>	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.
<b>Community premises</b>	Those premises that have successfully applied to remove the mandatory DPS requirement.
<b>Casinos and bingo halls with a membership scheme</b>	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
<b>Premises with overnight accommodation</b>	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.
<b>Restaurants</b>	<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"> <li>(i) customers are shown to their table;</li> <li>(ii) food is provided in the form of substantial table meals that are served and consumed at the table;</li> <li>(iii) premises primarily serve meals to those eating on them, and</li> <li>(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.</li> </ul>
<b>Theatres and cinemas</b>	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.
<b>Casinos Bingo Halls</b>	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
<b>Community Amateur Sports Clubs (CASCs)</b>	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.)
<b>Community premises</b>	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
<b>Country village pubs</b>	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
<b>Country village pubs</b>	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 <b>Best Bar None</b> scheme
Members of a locally accredited <b>Pubwatch, Clubwatch or Shopwatch</b> 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"><li>• 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.</li><li>• Membership is open to all licensed premises within the geographic area.</li><li>• The scheme has a Chair person and/or Coordinator who is responsible for maintaining verifiable records of membership.</li></ul>
Those premises which pay an annual <b>individual</b> contribution to a <b>Community Alcohol Partnership</b> 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 <b>Business Improvement District</b> (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](mailto: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?**

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**CONSULTATION QUESTION 16:**

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**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:**

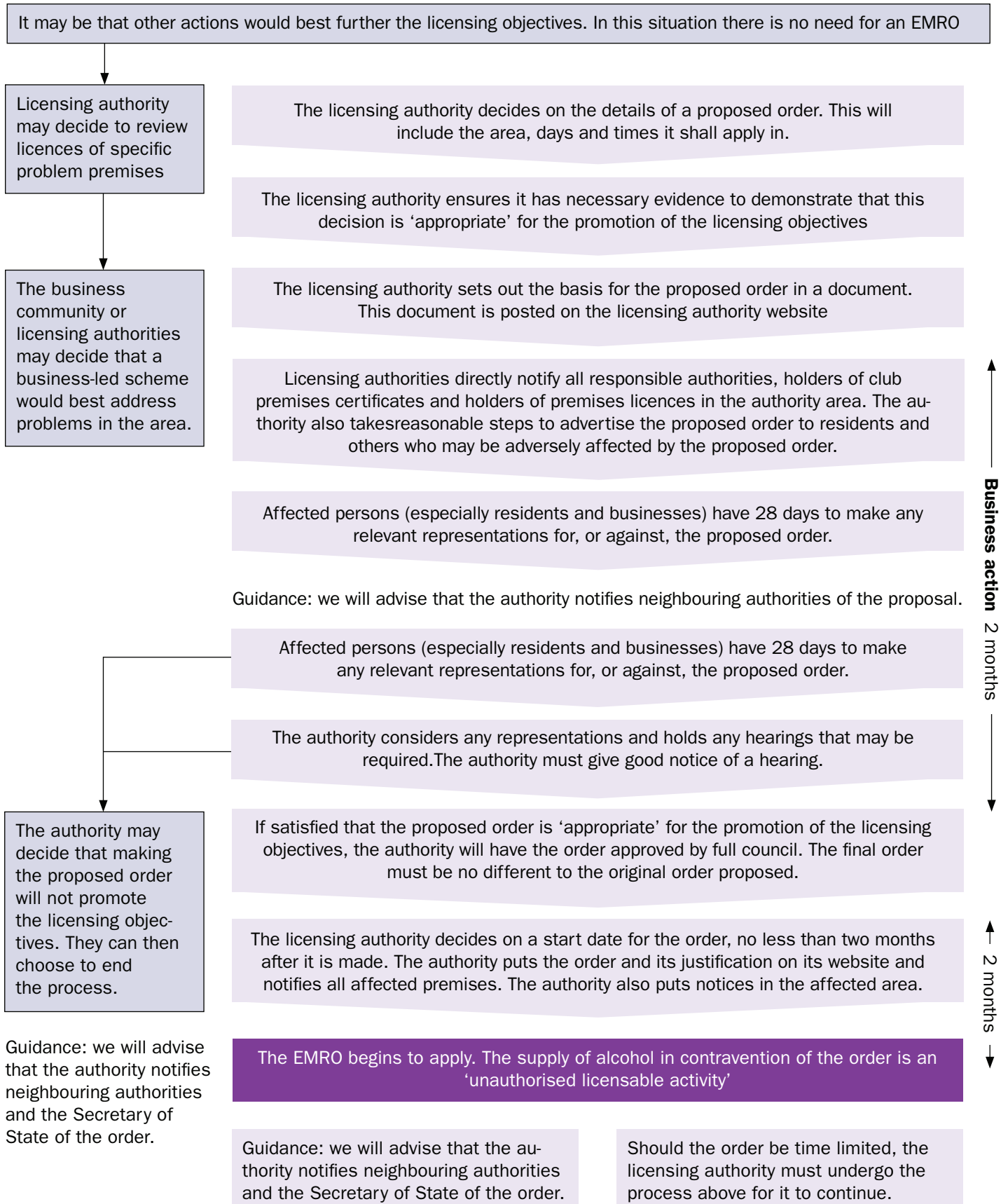
**If you have any comments on the Impact Assessment, please detail them here?**

**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?**

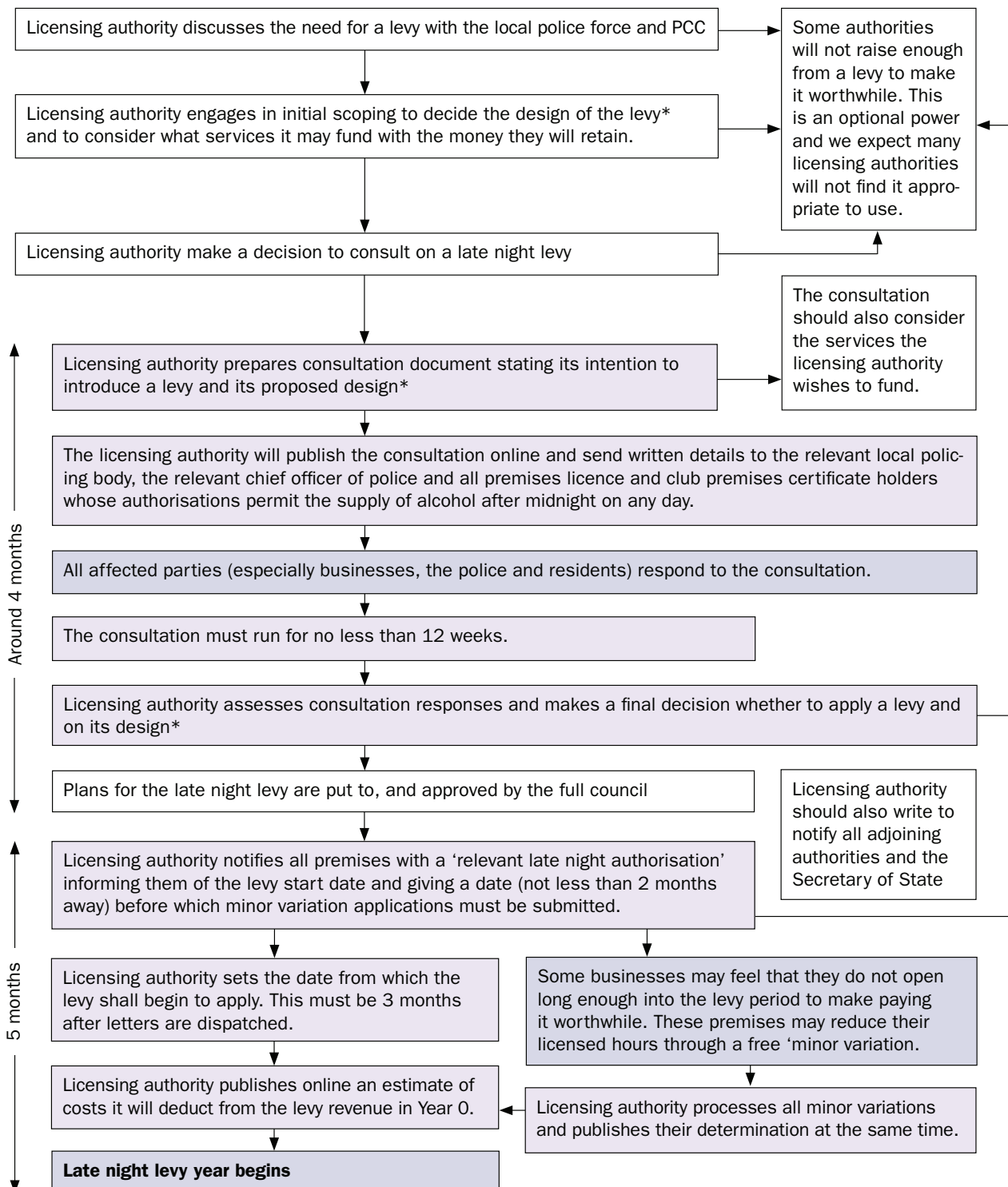
# ANNEX A - EMRO PROCESS MAP

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.



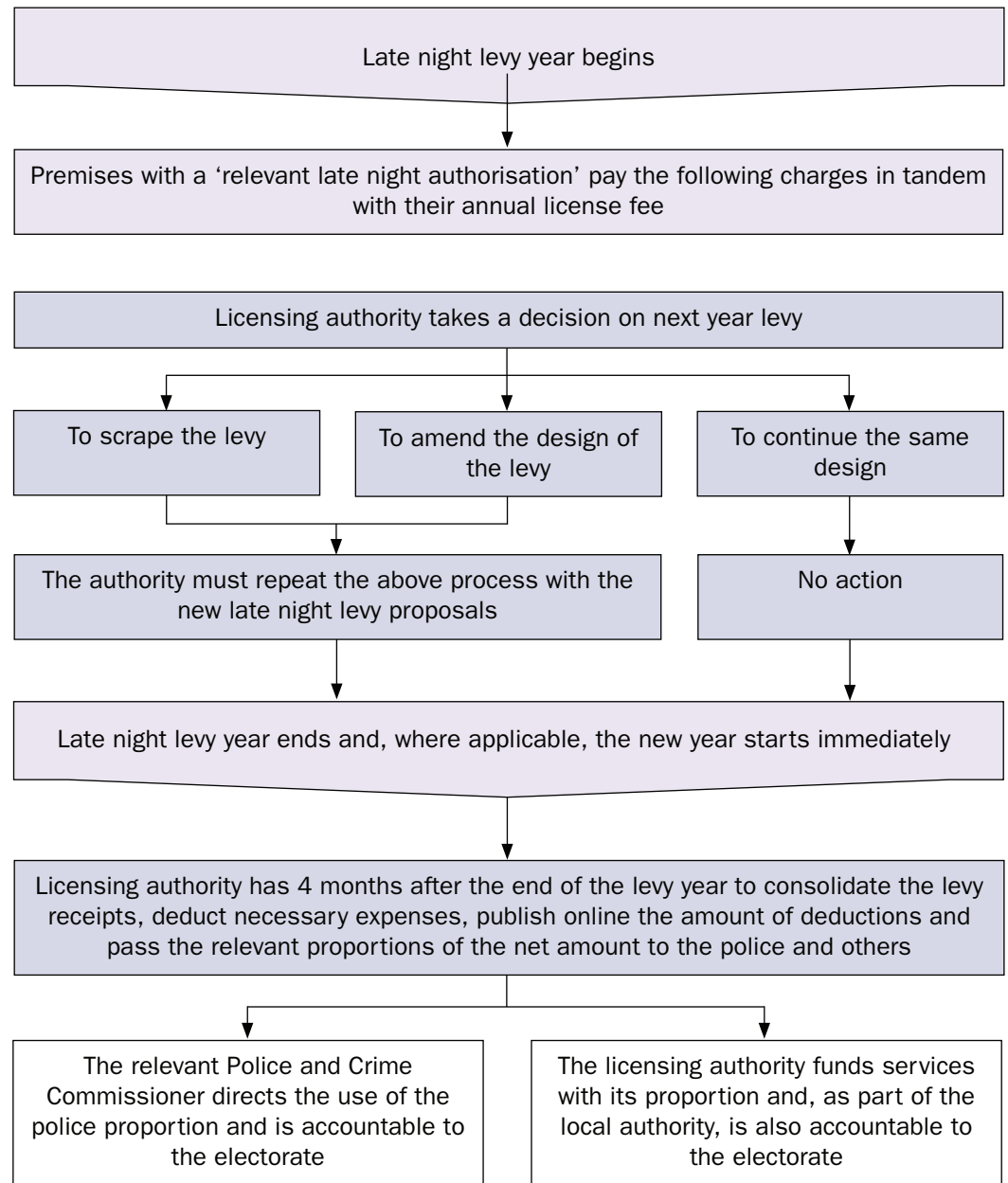
# ANNEX B - LATE NIGHT LEVY PROCESS MAPS - (Part I - Introduction)

Essential processes which will be deductible from levy revenue	<p><b>'late night supply period'</b>- This is the time period where the levy applies. The licensing authority chooses this period but it must be within the window of midnight and 6am.</p> <p><b>'relevant late night authorisation'</b>- a licence or certificate which permits the supply of alcohol within the 'late night supply period'</p>
Key stages for business	<p><b>*The levy design</b> - is the licensing authority's choice of the 'late night supply period', any exemptions or reductions that apply and the proportion of the revenue (after administrative costs are deducted) which the licensing authority wishes to keep to fund other activities (max 30%).</p>





# 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>

<b>Title:</b> <b>Dealing with the problems of late night drinking - secondary legislation consultation</b>  <b>Lead department or agency:</b> Home Office <b>Other departments or agencies:</b> None.	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> HO
	<b>Date:</b> 24/08/2011
	<b>Stage:</b> Consultation
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> Carla Giudice Carla.Giudice@homeoffice.gsi.gov.uk

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

Alcohol related crime and disorder carries a large cost to the taxpayer and community. The Police Reform and Social Responsibility Bill recently introduced two measures which specifically relate to alcohol sales in the late night economy. The late night levy and Early Morning Restriction Orders (EMROs) are two very distinct measures. The late night levy (Part 2, Chapter 2) was created to help local areas collect a contribution towards the large police costs of maintaining a safe late night economy. EMROs (clause 119) are designed as a tool to address specific pockets of late night alcohol related crime and disorder. Government intervention is now necessary to make good regulations on various aspects of the policies and to commence the powers. This is a consultation-stage impact assessment.

### What are the policy objectives and the intended effects?

Late night levy secondary legislation:

- make good provision for licensing authority discretion over which categories of business can be provided with an exemption or reduction to the levy.
- to use this provision to allow authorities to encourage participation in business-led best practice schemes.
- to set a proportionate levy charge and help us define the late night services that may be funded by licensing authorities.

EMRO secondary legislation - to ensure the effect of the EMRO does not apply to certain types of business, wherever it may be placed.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

This document accompanies a consultation on regulations for existing policies. The default is that we introduce these regulations; the options relate to what they contain. The government recognises it is always an option not to commence existing powers. This forms options 1 and A. Option 2 and Option B are to commence the late night levy and EMRO powers, similar to how they stand in primary legislation, with no provision for exemptions and reductions (levy) or exemptions (EMROs). Option 3 (preferred) is to allow licensing authorities to introduce a late night levy as set out in the consultation document (with suggested available exemption and reduction categories and allowing licensing authorities to fund activities that tackle the impact of the supply of alcohol late at night). Option C (preferred) is to allow licensing authorities to use EMROs, subject to some set exemptions. N.B. The levy and EMROs fulfilled two very different needs for government intervention. As such, we have not assessed the impact of one and not the other.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 6/2017

**What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** Month/Year

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

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Date: \_\_\_\_\_

# Summary: Analysis and Evidence

# Policy Option 3C (preferred)

## Description:

A late night levy (3) and EMROs (C) both as set out in consultation document (preferred)

Price Base Year 2009	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -53.0	High: -11.6	Best Estimate: -53.02

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0.4	18.2	157.0
Best Estimate	0.4	18.2	157.0

### Description and scale of key monetised costs by 'main affected groups'

(3) Transition costs - some premises may amend licence to fit exemption category - £0.37m. Ongoing cost - holders of 'relevant late night authorisation' bear annual cost equal to their levy charge. Premises which avoid the levy will bear loss of business up to the level of the levy charge (assumption: profit minus levy charge is greater than or equal to 0) - annual average £18.2m, (PV £157.0m). The low estimate assumes levy is not adopted by any licensing authorities.

### Other key non-monetised costs by 'main affected groups'

(C) Under EMROs, affected businesses will bear a cost of reduced income from alcohol sales. It is not possible to estimate the cost burden of these changes because, as explained in the Evidence Base, too many of the variables are unknown.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	16.1	17.0	145.4
Best Estimate	11.2	12.2	104.0

### Description and scale of key monetised benefits by 'main affected groups'

(3) Monetised benefit is the money raised from the levy minus administration costs. Low estimate is where no licensing authorities adopt the levy. High estimate assumes all liable premises pay the levy. Best estimate assumes some premises change their licensed hours to avoid the levy - £12.2m annual average (PV £104.0m). The police benefit will be 70-100% of this total monetised benefit. Local authority funded services will receive the remainder.

### Other key non-monetised benefits by 'main affected groups'

(3) Exemptions or reductions may result in enhanced take-up of business-led best practice schemes. Local services (police and licensing authority-funded) will have more resources to allocate in line with local priorities - benefit to the taxpayer and local community. (C) Reduction in alcohol-related crime and disorder; and anti-social behaviour (including reduced costs to police, local councils, and businesses). (3) and (C) - Business should benefit from a safer late night environment.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

This is a consultation stage impact assessment. We ask respondents to provide any further evidence. For (3) we use an 'average licensing authority scenario' to estimate impact. Assumptions summarised in Table 8.2. (C) The EMRO has many unknown variables, as detailed below, and we assume that they will only be adopted where local licensing authorities believe the loss of business is worth the reduction in alcohol related crime. Both policies are optional local powers. As such, their impact will be considered before licensing authorities decide on their adoption. **EMROs (C) are in scope for OIOO.** We have not monetised the impact of EMROs, but for the purposes of OIOO, the analysis estimates the direct impact on business to be **£-5.6m (Equivalent Annual)**. The levy is out of scope and the 'Direct impact' box below is only option 3.

Direct impact on business (Equivalent Annual) £m): Option 3			In scope of OIOO?	Measure qualifies as
Costs: 18.9	Benefits: 0	Net: -18.9	No	NA

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			Depends on clearances		
Which organisation(s) will enforce the policy?			LAs and police		
What is the annual change in enforcement cost (£m)?			Negligible		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> 0	<b>Non-traded:</b> 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> N/A	<b>Benefits:</b> N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> 8	<b>Medium</b> 50	<b>Large</b> 42
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	34
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	32
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

# Summary: Analysis and Evidence

# Policy Option 2B

## Description:

Late night levy without exemptions or reductions (2) and EMROs without exemptions (B)

Price Base Year 2009	PV Base Year 2011	Time Period Years 2010	Net Benefit (Present Value (PV)) (£m)		
			Low: -64.6	High: -9.51	Best Estimate: -64.6

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0	0
High	0		25	215.2
Best Estimate	0		25	215.2

### Description and scale of key monetised costs by 'main affected groups'

(2) Ongoing cost - holders of 'relevant late night authorisation' bear annual cost equal to their levy charge. Premises which avoid the levy will bear loss of business up to the level of the levy charge (assumption: profit minus levy charge is greater than or equal to 0) Annual Average £25m, (PV £215.2m). The low estimate assumes levy is not adopted.

### Other key non-monetised costs by 'main affected groups'

(2) Hospitality industry bears cost in this option (compared to option 3).  
(B) Under EMROs, affected businesses will bear a cost from reduced income from alcohol sales. It is not possible to estimate the cost burden of these changes because, as explained in the appraisal, too many of the variables are unknown.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0	0
High	23.1		24.0	205.7
Best Estimate	16.7		17.6	150.6

### Description and scale of key monetised benefits by 'main affected groups'

(2) Monetised benefit is the money raised from the levy minus administration costs. Low estimate is where no licensing authorities adopt the levy. High estimate assumes all liable premises pay the levy. Best estimate assumes some premises change their licensed hours to avoid the levy - £17.6m annual average (PV £150.6m). The police benefit will be 70-100% of this total monetised benefit. Local authority funded services will receive the remainder.

### Other key non-monetised benefits by 'main affected groups'

(2) Local services (police and licensing authority-funded) will have more resources to allocate in line with local priorities - benefit to the taxpayer and local community. (B) - Reduction in alcohol-related crime and disorder; and anti-social behaviour (including reduced costs to police, local councils, and businesses). Both (2) and (B) - Business will benefit from a safer late night environment.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

This is a consultation stage impact assessment. We ask respondents to provide any further evidence. For (2) we use an 'average licensing authority scenario' to estimate impact. Assumptions summarised in Table 8.2. (B) The EMRO has many unknown variables, as detailed below, and we assume that they will only be adopted where local licensing authorities believe the loss of business is worth the reduction in alcohol related crime. Both policies are optional local powers. As such, their impact will be considered before licensing authorities decide on their adoption. **EMROs (B) are in scope for OIOO.** We have not monetised the impact of EMROs, but for the purposes of OIOO, the analysis estimates the direct impact on business to be **£-5.6m (Equivalent Annual)**. The levy is out of scope and the 'Direct impact' box below is only option 2.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: 25.9	Benefits: 0	Net: -25.9	No	NA

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			Depends on clearances		
Which organisation(s) will enforce the policy?			LAs and police		
What is the annual change in enforcement cost (£m)?			Negligible		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> 0	<b>Non-traded:</b> 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> N/A	<b>Benefits:</b> N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> 8	<b>Medium</b> 50	<b>Large</b> 42
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	34
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	32
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	
Justice system <a href="#">Justice Impact Test guidance</a>	No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Police Reform and Social Responsibility Bill Alcohol Provisions Impact Assessment <a href="http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary">http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary</a>
2	“DCMS Statistical Bulletin – Alcohol, Entertainment and Late Night Refreshment Licensing England and Wales, April 2008 – March 2009” <a href="http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference_library/publications/6387.aspx">http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference_library/publications/6387.aspx</a>
3	
4	

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0.37	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2
<b>Total annual costs</b>	18.6	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2	18.2
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4
<b>Total annual benefits</b>	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4	13.4

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet



# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

#### *The late night levy (1,2,3)*

Alcohol related crime and disorder carries a large cost to the police. A recent survey estimated that 15% of violent crime occurs after midnight (British Crime Survey, 2010<sup>1</sup>). However, police costs in connection to the late night supply of alcohol are not limited to work late at night. Police representatives have told us that they must carry out follow-up investigations, arrange for custody etc. Furthermore, in almost half of all violent incidents, the victim believed the offender to be under the influence of alcohol<sup>2</sup>. The costs of dealing with these incidents are dealt with by the police. 38 police authorities were recently asked about overtime arrangements. 22 respondents noted the night time economy as a major cause of their overtime payments<sup>3</sup>. Currently these costs are mostly borne by the taxpayer. As most of these costs are a result of the supply of alcohol late at night, those who profit from this activity should make a greater contribution.

In response to these costs, the coalition Government's 'Programme for Government' committed to allow local authorities to charge more for late night licences to help pay for policing. After considering options in the 'Rebalancing the Licensing Act' consultation, **the Police Reform and Social Responsibility Bill introduced the 'late night levy'**. This is a local tax raising power for local authorities in their capacity as a licensing authority. The licensing authority will, having regard the costs of policing late night alcohol related crime and disorder, consider the desirability of raising revenue in their area through a levy. Should they decide to adopt the levy, they will also decide the time period on every night when the levy shall apply. This can be at any time beginning on or after midnight and ending on or before 6am. Premises which are licensed to sell alcohol within this period shall pay an annual contribution when they pay their licence fee.

Once the levy receipts have been collected, licensing authorities will deduct the costs they incur in administering and introducing the scheme. Following this deduction, at least 70% of the net amount must be passed to the police. The remainder will be kept by the licensing authority to fund late night services. This impact assessment will assume that the revenue is split exactly 70:30. This will be assumption **A7** and used below.

Among other things, primary legislation has made provision for regulations to specify:

- what services a licensing authority may fund with any money they retain from the levy
- the level of the levy charge
- what exemption or reduction categories of premises may be available for licensing authorities to adopt.

**This impact assessment accompanies a consultation which will help the government make these regulations. The rationale for the late night levy was considered in the impact assessment for the Police Reform and Social Responsibility Bill <http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>. This IA focuses more on the impact of the changes through regulations, but still provides some analysis of the general impact of the levy.**

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#### *Early Morning Restriction Orders (A,B,C)*

We are committed to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area whilst promoting a healthy late night economy to benefit business and the community that they serve.

<sup>1</sup> *Crime in England and Wales 2009/10*, Home Office Statistical Bulletin 09/10

<sup>2</sup> *Crime in England and Wales 2009/10*, Home Office Statistical Bulletin 09/10

<sup>3</sup> Understanding Overtime in the Police Service, February 2010 <http://www.homeoffice.gov.uk/docs/homeoffice/police-overtime.pdf>

The Early Morning Restriction Order was an uncommenced power within the Licensing Act 2003 that would allow licensing authorities to restrict sales of alcohol in the whole or a part of their areas between 3am and 6am if they consider this appropriate for the promotion of the licensing objectives. This applies to premises licences, club premises certificates and temporary event notices. In 2010 the Government consulted on extending and commencing the power to allow licensing authorities to apply it flexibly from midnight to 6am. This proposal received widespread support with many residents and resident groups informing us that the night-time economy makes certain parts of the town no-go-areas at night and anti-social behaviour associated with late night drinking extends into residential communities not just around licensed premises. These changes were made in the Police Reform and Social Responsibility Bill.

Some respondents to the consultation agreed that the Government should exempt some types of business from the effects of an Early Morning Restriction Order on the basis that they are not a cause of alcohol related crime and disorder. Primary legislation has made provision for regulations to specify these types of business.

**Again, the EMRO powers were considered in the Impact Assessment for the Police Reform and Social Responsibility Bill (<http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>). This impact assessment accompanies a consultation which will help the government make regulations relating to exemption, but still provides some analysis of the general impact of EMROs.**

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## **A.2 Groups Affected**

By secondary legislation (2,3,B,C):

**Those premises eligible for an exemption**, where the levy is applied, will need to pursue the exemption with the relevant licensing authority. They may need to amend their licence to meet the criteria of the applicable category. This will incur a minimal cost and it is reflected in this Impact Assessment.

In areas which adopt the late night levy (2,3):

**Participants in the late night economy, local residents and businesses**, where the levy is applied, stand to benefit from the levy as a result of a better funded local police force and local authority services.

**Any business with a permanent authorisation to sell alcohol within the 'late night supply period'**, designated by the licensing authority, will be affected by the late night levy. The supply of alcohol is authorised on a permanent basis by 'premises licences' and 'club premises certificates'.

**Licensing authorities which choose to adopt the levy** will be affected, but they will be able to deduct the costs they incur in establishing and administering the levy. They will benefit from increased revenue to fund late night services (up to 30% of net levy receipts – see 'Background')

In areas which adopt an EMRO (B,C) :

**Participants in the late night economy, local residents and businesses**, where an EMRO is applied, stand to benefit from a safer late night economy.

**Any business selling alcohol in an EMRO area at the relevant times**, where an EMRO is applied, will no longer be allowed to sell alcohol at that time.

**Licensing authorities which choose to use an EMRO** will incur a small administrative cost in applying the power. Licensing authorities receive income through licence fees for the costs they incur in discharging their duties under the Licensing Act 2003.

Both policies

**The police**, where an EMRO or the levy is applied, will bear a cost inasmuch as their participation in the licensing authority decision to adopt the levy or an EMRO. They will benefit from increased revenue (minimum of 70% of net levy receipts – see ‘Background’). They will bear a cost in enforcing an EMRO.

**Late night alcohol buyers (customers) and other late night businesses** may be affected by a constrained choice of alcohol retailers and a change in the nature of the late night economy. This is unlikely for two reasons: 1. The levy charge is proportional to size of business and, as such, we only expect a small proportion of businesses to reduce their licensed hours to avoid the levy. 2. We have suggested provision under option 3 to exempt those country premises, within designated rural settlements with fewer than 3,000 residents, which serve as the ‘last’ public house in a village. This will help ensure that the levy does not risk closing down the only choice of premises.

### **A.3 Consultation**

#### **Within Government**

Cabinet committee clearances were gained for the original consultation and policies as introduced in the Police Reform and Social Responsibility Bill. These clearances include official and ministerial level discussions with other Government departments, including Business, Innovation and Skills, Her Majesty’s Treasury, The Department for Culture, Media and Sport, and the Department for Communities and Local Government.

#### **Public Consultation**

The late night levy and EMROs were first consulted on as part of the public consultation on ‘Rebalancing the Licensing Act’ ahead of the introduction of the Police Reform and Social Responsibility Bill. The Bill has received public scrutiny by Members of Parliament and the House of Lords. This Impact Assessment has been created in advance of a public consultation on forming aspects of secondary legislation.

To assist with the effective design of our consultation, officials held meetings with representatives from the licensed trade, licensing authorities, the police and best practice schemes.

## **B. Rationale**

Overall rationale for the two policies was considered in advance of laying primary legislation. Please see the Police Reform and Social Responsibility Bill Impact Assessment<sup>4</sup>. The late night levy is needed to address some of the high costs of policing late at night. The aim of the levy, as a whole, is to raise money for the police. Early Morning Restriction Orders will help licensing authorities to target specific pockets of alcohol related crime and disorder in their areas.

**This impact assessment considers regulations to existing powers. Below is the rationale for these provisions:**

#### *The late night levy exemptions and reductions (2,3)*

It may be that some businesses should not pay a full contribution towards the high costs resulting from the late night supply of alcohol. This impact assessment accompanies a consultation that proposes allowing licensing authorities to grant exemptions or reductions to all businesses in their area that fall into certain categories of premises. Exemptions and reductions categories will be applied at the discretion of a local licensing authority. As mentioned above, the levy must be simple for licensing authorities to introduce and administer. As such, categories will be prescribed in regulations. Licensing authorities will not need to justify the payment or non-payment of the levy by each individual business. Finally, categories will also need to be simple to interpret and apply to businesses.

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<sup>4</sup> <http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>

Our proposed exemption and reduction categories have been designed to encapsulate three types of situation:

- Licensing authorities may feel that some types of businesses should not make a contribution to the police costs in connection with the late night supply of alcohol. Examples of these businesses include hotels, restaurants and those Bed and Breakfasts with a licence to sell alcohol. These businesses can hold late night licenses but only serve to guests or those that eat a table meal.
- The Government understands that many late opening businesses already work together, and make a financial contribution, to address some of the negative effects of the late night supply of alcohol. The government would like to use the levy as an opportunity to show its support for these schemes. Therefore, these premises should be given a reduction to the levy.
- The Government has been made aware that many premises only have one late night licence, permitting them to sell alcohol on New Year's Eve. Without an exemption for these premises, there is likely to be a large administrative burden for licensing authorities and small businesses. All these premises must reduce the hours on their licence and then apply for a Temporary Event Notice.

These exemptions and reductions will also serve to minimise the burden of the levy on business.

#### *Use of the late night levy revenue*

The police are not the only body that incur great costs in dealing with the effects of the late night supply of alcohol. Although the Government is committed to funding late night policing, primary legislation has allowed licensing authorities to retain up to 30% of the net levy revenue. The Government has stated its intention for this money to be directed at services such as taxi marshals and late night wardens. This consultation will consider what other services local authorities may wish to fund with their retained proportion.

#### *The late night levy charge*

The consultation sets out the underlying principles when setting the level of the late night levy charge. The Government believes that it must be set a proportionate and fair burden on business. Table 2 below states our indicative levy charges. The average charge has been calculated below as around £800. This is a reasonable amount to pay in light of the police costs incurred late at night.

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#### *Early Morning Restriction Orders (B,C)*

Some respondents to our consultation highlighted the importance of primary legislation provision for certain types of business to be exempt from Early Morning Restriction Orders. The government has announced its intentions to include exemptions for premises that generally operate responsibly and do not contribute to alcohol related crime and disorder and public nuisance late at night. These businesses should not be affected by the order, wherever they are placed. This consultation shall seek views on what types of business do not cause alcohol related crime and disorder and which exemptions should be available.

## **C. Objectives**

The key objectives of **late night levy regulations** are:

- To grant local discretion to licensing authorities in deciding which categories of business should make a contribution to the late night levy in their area.
- To encourage participation in best practice schemes. A positive outcome of this regime would be the flourishing of community action amongst the licensed trade.
- To allow licensing authorities to reduce the burden of the levy on businesses such as hotels, community premises and theatres, should they feel it appropriate in their area
- To allow licensing authorities to remove the burden of licence variations and Temporary Event Notices around New Years Eve.

- To set an appropriate charge and make well-designed provisions for adopting the levy and passing on the raised funds to local services.

The objectives of **EMRO regulations** are:

- To ensure an EMRO does not apply to certain types of business,
- To make well-designed provision for the process of adopting/amending/scrapping an EMRO.

After regulations have been made (following the consultation) the late night levy policy (**as a whole**) will have a number of successful outcomes. First and foremost, the police will be provided further resources. They can then direct these resources in line with local priorities. Second, licensing authorities may have more money to provide vital services such as taxi marshals, town wardens or street cleaning. Third, the Government hopes that the levy will strengthen partnerships between licensing authorities and the police. The two partners should work together to best allocate the funds in line with the nature of the local late night economy.

EMROs will provide licensing authorities with an additional tool to shape and determine local licensing. As a result of an EMRO, specific problem areas and problem times will see a reduction in alcohol related crime and disorder.

## D. Options

This document accompanies a consultation on regulations for existing policies. The default is that we introduce these regulations; the options relate to what they contain. The government recognises it is always an option not to commence existing powers. This forms **options 1 and A**.

**Option 2 and Option B** are to commence the late night levy and EMRO powers, similar to how they stand in primary legislation, with no provision for exemptions and reductions (levy) or exemptions (EMROs).

**Option 3 (preferred)** is to allow licensing authorities to introduce a late night levy as set out in the consultation document (with suggested available exemption and reduction categories and allowing licensing authorities to fund activities that tackle the impact of the supply of alcohol late at night).

**Option C (preferred)** is to allow licensing authorities to use EMROs, subject to some set exemptions.

N.B. The late night levy and EMROs fulfil two very different needs for government intervention; we are not choosing between the two. As such, we have not assessed the impact of one and not the other.

## E. Appraisal (Costs and Benefits)

### General Assumptions and Data

The end of this section contains a summary of the key assumptions and figures.

The specific costs and benefits of the late night levy are dependant on how many licensing authorities adopt it. No licensing authority is the same and the amount of money raised from the levy will differ depending on the number of payers and the rateable value band of the premises. We have created an 'average licensing authority scenario' for the purposes of this impact assessment. To gain a picture of the national impact we then need to make a prediction of how many licensing authorities will adopt the levy. We do not expect this to be all licensing authorities. Smaller, more rural areas, for example, will not raise enough from a late night levy to make it worthwhile. The Impact Assessment for the Police Reform and Social Responsibility Bill estimated that 94 licensing authorities will raise enough from the levy to make collecting it worthwhile. We have used this as an upper estimate for national impact (**henceforth A8**).

To generate the 'average licensing authority' scenario, we took a snapshot of the 100 largest licensing authorities with available data.

**Table 1 - Licences in force on 31 March 2010 by licensing authority area (DCMS Licensing Statistics)<sup>5</sup>**

Premises Licence			Club Premises Certificates		Total alcohol authorisations
On-sales or supply of alcohol only	Off-sales of alcohol only	Both on and off sales or supply of alcohol	On-sales or supply of alcohol only	Both on and off sales or supply of alcohol	
19,955	25,758	40,418	3,440	3,626	93,197

In these 100 authorities there was an average of 932 premises with alcohol permissions (total authorisations divided by 100).

*Premises with a 'relevant late night authorisation' in the average licensing authority*

Licensing authorities can choose the 'late night supply period' that shall apply in their area. This can be any time within the parameters of midnight and 6am. This impact assessment assumes that every licensing authority, that adopts the levy, chooses to apply the levy with a from midnight to 6am. This will give us an upper estimate of the costs/benefits. To gain an idea of the proportion of premises that open into this levy period, the Home Office bought data from 'CGA Strategy Ltd' in August 2010 which suggested that 33.4% of on-trade premises hold a licence to sell alcohol after midnight (**henceforth A1**). Raw data cannot be shared. These data also cover a number of other types of business (e.g. hotels) and is also referenced in table 4. We will assume that off-trade premises will have the same late night permissions. We thus come to an average licensing authority scenario with 33.4% of 932 = 311 late opening premises (**henceforth A2**).

We plan to link the levy charge to licence fee bands. We used a calculation based on the principle of the number of police hours per week that are required as a result of premises opening beyond midnight. This was not intended to provide an accurate assessment of how much the late night economy costs police forces, but provided a means for calculating an appropriate levy charge based around the principle of police resources being used as a result of premises opening late. Most importantly, as explained in the 'Rationale' above, this charge must be a proportionate and fair burden on business. The prospective charges are as follows:

**Table 2 – Proposed levy charges**

Licence fee band	A	B	C	D	Dx*	E	Ex*
Rateable value <sup>6</sup>	£0 - £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000		£125,001 and above	
Existing annual licence fee	£70	£180	£295	£320	£640	£350	£1,050
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440
*(Dx and Ex) Multiplier applies to premises in category D and E that primarily or exclusively sell alcohol							

To calculate the amount raised by the levy, we will need to know the band of the premises in the average licensing authority scenario. Data with rateable value band breakdowns are not available for 2010(\*As such, table 1 and 3 do not match in 'total authorisations'). Using the largest 100 licensing authorities (with available data) in 2009, we estimated the average breakdown of premises by licence fee band. Note that this data contains those with other authorisations (i.e. entertainment). We assume that the breakdown is similar for those with only alcohol permissions.

**Table 3 – Proportions of premises in each licence fee band**

<sup>5</sup> The sale of alcohol is licensed through 'premises licences' and 'club premises certificates'. An 'on' licence is for consumption on the premises and an 'off' licence is for consumption off the premises. Both kinds of authorisation to sell alcohol will be affected by the late night levy.

<sup>6</sup> Rateable value is a national standard set by the Valuation Office Agency. More information is found at this link: [http://www.2010.voa.gov.uk/rli/static/HelpPages/English/faqs/faq\\_about\\_rates\\_rv\\_mean.html](http://www.2010.voa.gov.uk/rli/static/HelpPages/English/faqs/faq_about_rates_rv_mean.html)

	Totals	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Number with no fee applicable/ fee band unknown
Premises Licences	92,648	21,085	48,468	12,531	2,683	387	6,645	499	4,656 (a)
Club premises certificates	6,453	1,645	4,269	387	44	0	108	0	22 (b)
Total authorisations with known fee band	94,423 * (-a and b)	22,730	52,737	12,918	2,727	387	6,753	499	
% of premises in each band in 'average licensing authority scenario' ( <b>Henceforth A3</b> )		<b>24.07%</b>	<b>55.85%</b>	<b>13.68%</b>	<b>2.89%</b>	<b>0.41%</b>	<b>7.15%</b>	<b>0.53%</b>	

Throughout this Impact Assessment we will apply the above percentages to the average licensing authority scenario. This will help us generate an accurate representation of the number of relevant premises in each band. When applying these percentages we have consistently rounded up. This is important to ensure that some band D<sub>x</sub> and E<sub>x</sub> premises are recorded (i.e. in table 10, 0.41% of 102 is 0.41; thus we round to 1). This has been applied consistently to both cost and benefit calculations. By rounding we also guard against inaccurate representations by dividing premises (e.g. 80% of a premises cannot pay a levy).

#### *Premises choosing to avoid the levy*

Some premises may feel that they do not make enough money from opening in the levy period to make paying it worthwhile. These premises will make a free minor variation to their licensed hours. These premises are covered when discussing 'costs' because we make the assumption that no premises will reduce their hours should profit minus the levy charge be greater than or equal to zero (**henceforth A5**). To calculate a lower estimate of benefits of the levy, we will need to estimate the amount of premises that make this change. Following feedback we have received from the public consultation<sup>7</sup> and our discussions with stakeholders we feel it is reasonable to use the estimate of 25% of premises that currently open late in an area that operates the late night levy (**henceforth A6**).

#### *Exemptions and reductions (as consulted on)*

The consultation document (which this IA accompanies) has suggested a number of possible exemption and reduction categories for the levy. To estimate costs and benefits, we will need to estimate the number of premises which fall into these categories within the 'average licensing authority scenario'. For most of the estimates below, we are unable to distinguish between those with and without an alcohol licence. We have further broken the data down to estimate how many have a licence to sell alcohol beyond midnight.

**Table 4 - Suggested exemption categories**

Proposed category	Source of data used to estimate the number in category in the average licensing authority scenario	Estimated number in category in England and Wales	Estimated proportion with a late night authorisation to sell alcohol (and source of data)	Estimated number liable to levy across England and Wales (348 licensing authorities).	Number in average licensing authority scenario
Premises with	"UK Business: Activity, Size and Location 2010" from National	7,665	37.3% (In dataset as <b>A1</b> )	2,859	9

<sup>7</sup> For more information on the consultation: <http://www.homeoffice.gov.uk/media/press-releases/2015/04/20150420-consultation/>

overnight accommodation	Statistics. Table B3.4 estimates the number of VAT and/or PAYE based enterprises in all industries across the United Kingdom by 2010 Standard Industrial Classification (UKSIC (2007)) Class by Government Office Region. We did not use DCMS 24 hour licensing statistics. After discussions with the British Hospitality Association we concluded that this number did not represent all those hotels with a late night licence.				
Bingo Halls	The Bingo Association provided figures based on their membership. This does not include the 'gala bingo' chain.	187	33.4% (all premises average from <b>A1</b> )	62	1
Casinos	The National Casino Industry Forum (NCiF) provided figures based on their membership and those licensed under the Gambling Act 2005.	132	98% (114 of 116 NCiF members)	130	1
Theatres and cinemas	The Society of London Theatre and Theatrical Management Association provided a survey of their members on how many stayed open late. Arts Council England provided figures on the number of premises in England.	843	60% (Proportion of members with late night authorisations)	506	2
Restaurants	"UK Business: Activity, Size and Location 2010" from National Statistics. Table B3.4 estimates the number of VAT and/or PAYE based enterprises in all industries across the United Kingdom by 2010 Standard Industrial Classification (UKSIC(2007)) Class by Government Office Region.	54365	22.80% (In dataset as <b>A1</b> )	12,395	36
Community premises	DCMS Licensing Statistics show that 243 have applied for the DPS exemption under the 2009 regulations. With the EMROs and the levy potentially using this as an exemption category, we can use the estimate of 4,000 premises that were likely to be affected in the 2009 "Impact Assessment of the proposal to remove the requirements for a Designated Premises Supervisor and personal licence holder for community premises)".	4000	33.4% (all premises average from <b>A1</b> )	1,336	4
Community Amateur Sports Club	Estimated by "CASCinfo"	6,000	33.4% (all premises average from <b>A1</b> )	2,004	6
Last retail outlets in rural	Although we plan to make provision for these businesses, it remains as a safeguard. We have not factored in any examples of these premises in the 'average licensing authority scenario'. This is for three reasons:				0



settlements with a population of less than 3,000	1) We do not expect for areas with a high proportion of rural businesses to apply the levy. 2) We do not expect many of these premises to hold licences after midnight. 3) Premises in this category must be in Band A or B. They will, most likely, be in Band A. As such, the deduction of cost will be £299 per premises. This will make a very small impact on the monetised calculations below.	
New Years	Please see comments below	
<b>Total</b>		<b>59</b>

**Table 5 - Suggested reduction categories**

Name of scheme where members should have reduced rate	Source of data used to estimate the number in category in the average licensing authority scenario	Number in 'average licensing authority scenario'
Business Improvement District, or Purple flag area	These three schemes are most likely to include premises in a small city centre area. There is only likely to be one of these in one licensing authority area. Leeds licensing authority has advised us of West Yorkshire Police's 'Operation Capital Scheme' which involves around 20 city centre premises. We shall use this as the basis for our estimation	20
Special licensing authority approved scheme		
Best Bar None	We have taken a sample amount from the website of the Sheffield Best Bar None scheme. At the time of drafting, this scheme had 47 accredited members.	47
Pubwatch, Clubwatch, Shopwatch, CAPs and others	It is difficult to estimate the number of premises in these categories. Some schemes may also derive most of their funding from national bodies, and thus may not pass on the reduction. We shall use an estimate of 20 premises with a 30% discount. This has the same impact as 40 premises with a 15% discount.	20
<b>Total</b>		<b>87</b>

*Reduction given to above categories*

Throughout this impact assessment we have used a reduction of 30% for all 87 premises (**henceforth A4**). There are two reasons for this:

1. The consultation document proposes either a total discount of 30% or cumulative discounts of 10% up to a maximum of 30%. In the second case, we shall assume that premises see the benefits of joining three schemes and that they claim the full discount.
2. The consultation document proposes Business Improvement Districts (BIDs) as a possible exemption category. Local authorities generally support and promote BIDs in their area. BID payers already pay a substantial contribution to measures which improve the area. As such, we doubt that many licensing authorities with a successful BID will adopt the levy. This means an assumption of 20 exempted BID premises in the average licensing authority scenario will skew the estimates of costs and benefits.

*New Year's exemption category*

We plan to make an available exemption category which covers those businesses with one annual late night authorisation to sell alcohol, occurring on New Years Eve. We do not think it is a viable option to omit this exemption category. This is because of the number of premises with this item on their licence. Should the category not exist, the majority of on-trade licensed premises will have to submit a free minor variation to their licence and will have to apply for a Temporary Event Notice in the run up to New Year. This will be a large burden on both licensing authorities and businesses. As such, the impact of this exemption is assumed to be equal to the baseline and not assessed below (i.e. premises with this one authorisation, in every option, will not pay the levy).

## Licensing Authority Administrative Expenses

This impact assessment estimates the cost for licensing authorities to run the levy. These estimates have been derived from discussions with licensing authority representatives.

We have made estimates of administrative costs in order to work out examples of how the levy money shall be spent (please see tables 11 and 14).

There may be other costs in administering the levy, such as sending out a levy invoice, but these processes will be done in tandem with the existing licence fee regime and will not constitute a new cost. The costs we estimate are only new costs.

The following calculations are based on two key costs:

1. One hour of an administrative officer's time (including overheads) - £28. This estimate was provided by a licensing authority partner.
2. The cost of processing a minor variation of licence to avoid the levy - £38.43. This estimate is based on the formula used for setting the minor variation fee of £89. We have deducted the costs of the processes that will be omitted when a) all minor variation applications have the same intent and; b) applications are processed en masse.

In the table below we have estimated the number of hours needed for each process. These estimates are based on discussions with licensing authorities. These are indicative estimates and feedback from consultation respondents will be welcomed.

### **Tables 6 and 7 – Processes when introducing the levy (one-off)**

	Process	Hours	Cost to licensing authority (hours x £28)
A	Sifting and licences to determine liability for levy	50	£1,400
B	Preparation of consultation	35	£980
C	Writing to all licensees, councillors, responsible authorities and interested parties. The hours of time in this process account for the costs of postage.	40	£1,120
D	Analysis of consultation responses	35	£980
E	Preparation for committee	30	£840
F	Report to cabinet	20	£560
G	Writing to all liable premises	20	£560
H	<b>Option 3 only</b> - Processing exemptions and reductions	40	£1,120

	Option 2 (I)	Option 3 (J)
Number of minor variations made to avoid levy	78 (see para. above table 10)	63 (see table 9.1)
Cost of making these variations (number of variations x £38.43)	£2,998	£2,421

As such, total transitional costs:

**Option 2 = A to G (not H) and I: £9,438**

**Option 3 = A to H and J: £9,981**

### **Table 8 – Processes when running the levy (ongoing)**

	Process	Hours of time	Cost to licensing authority
A	Sifting any licences to check for any changes in liability	20	£560
B	<b>(Option 3 only)</b> Ensuring reduction carries up to date	40	£1,120

C	Collection (with licence fee)	150	£4,200
D	Enforcement (with licence fee)	150	£4,200
E	Miscellaneous admin	100	£2,800
	Total ongoing cost option 2 (A-E minus B)	-	£11,760
	Total ongoing cost option 3 (A-E)	-	£12,880

### *Licence Trade Legal Fees*

Trade groups have raised the legal fees for businesses which may be incurred by premises wishing to avoid/gain exemption or reduction to the levy. Throughout this impact assessment it is assumed that the legal fees will not be higher than the charge a premises wishes to avoid. As such, this burden on business is completely covered in this Impact Assessment.

### *Distribution of monetised costs by business size*

Premises with alcohol permissions are divided into the rateable value bands in table 2. 'Small business rate relief' uses £6,000 or below as a 'small business' which receives full rate relief. Band B has a broad range of rateable values and captures 56% of levy payers. On this basis we shall use Band A as 'small', band B 'medium' and C-E as 'large'.

Using the analysis below, this table estimates the distribution under options 2 and 3.

**Table 8.1 – Distribution of costs by size of business**

	Small (Band A)	Medium (Band B)	Large (Bands C-E)
Option 2			
Maximum cost per band (from table 9)	£22,425	£133,632	£110,878
Percentage of total payers in each category	24%	56%	30%
Percentage of total costs borne by each category	8%	50%	42%
Option 3			
Maximum cost per band (from table 9)	£16,355	£96,998	£80,582
Percentage of total payers in each category	24%	56%	30%
Percentage of total costs borne by each category	8%	50%	42%

### **Both measures**

This impact assessment assumes that licensing authority decisions are rational, procedurally fair, non discriminatory, ECHR compliant etc. There should be no legal fee burden for licensing authorities who adopt the levy or EMROs should they follow the procedures that will be set out in primary and secondary legislation.

Both these measures mean that alcohol will still be available and sales in the national economy, as a whole, will be largely unaffected.

This impact assessment also assumes, for the purposes of making estimates, that all licensing authorities that adopt the measure do so from Y0. They will be local powers and licensing authorities will be able to adopt them at any time.

### **Enforcement**

Both options 2B and 3C do not have any significant increase in enforcement costs. The late night levy can be collected alongside the annual licence fee and contain negligible new costs.

EMROs may result in an increased enforcement cost as both licensing authorities and the police will need to ensure that premises are not contravening the order. However, the increased enforcement cost is likely to be outweighed by the reductions in enforcement costs resulting from the reduction in late night crime. This calculation will be made by the local licensing authority and police force in deciding whether to make an order.

**Table 8.2 - The following were explained in this section (this table serves as a reference):**

A1	The percentage of premises in average licensing authority open past midnight	Average of 33.4%
A2	The number of premises in the average licensing authority scenario	311
A3	The split of premises in the average licensing authority scenario by licence fee bands	In table 3
A4	The amount of reduction to the levy to be assumed in this Impact Assessment	30%
A5	No premises will change hours given that (profit – levy charge ≥ 0)	-
A6	Amount of premises that may change their licence to avoid the levy	25%
A7	(Detailed above) That the licensing authority will split the net levy revenue by the minimum requirement of primary legislation (70% to police and 30% to other services).	-
A8	The maximum number of licensing authorities that will raise enough from the levy to make collecting it worthwhile	94

### Analysis of different options

Analysis shall be carried out in the order: Option 3, Option 2, Option B and C, Option 1 and A.

### Option 3 – a late night levy as designed in the consultation document

A late night levy will be a power of taxation. As such it is 'out of scope' for the purposes of one in one out.

### **Costs (excluding OIOO)**

Levy payers will not receive added costs from the late night levy beyond the charge itself. Payment will be in tandem with the current annual licence fee. As such, holders of a 'relevant late night authorisation' will bear an **ongoing** annual cost as specified in Table 2 above.

Premises which decide to avoid the levy will bear the cost of loss of business up to the level of the levy charge (**under assumption A5**).

Our estimates (above Table 4) suggest that 59 premises in the average licensing authority scenario will be exempted from paying the levy. As a result, the costs in this scenario will be shared, to different extents, by 311 (as **A2**) minus 59 = 252 premises. Table 5 suggests that 87 will be eligible for a reduction. We will assume that all reductions are 30% of the applicable levy charge (as **A4**).

As such, the maximum cost to business will be:

**Table 9 - Cost to business from late night levy option 3**

256 premises after 59 exemptions. 87 reductions.	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
% per band (using <b>A3</b> )	24.07%	55.85%	13.68%	2.89%	0.41%	7.15%	0.53%	-
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	-
Number eligible to 30% discount	21	49	12	3	0	6	0	91
Number eligible for full fee	40	92	23	5	1	12	1	174
Total cost to business	£16,355	£96,998	£39,533	£9,692	£2,730	£24,187	£4,440	£193,934

The sum of premises in rows 4 and 5 amounts to 265 not 256. This is because we have consistently rounded percentages and numbers to ensure that premises in band Ex and Dx are accounted for. We have rounded down for the discount column so that 2 Ex and Dx premises are not recorded.

As a result, the maximum cost to business in the average licensing authority scenario will be £193,934 multiplied by the number of licensing authorities that adopt the levy. Using 94 (A8), the cost is estimated as:

Annual Average: £18.2m

Present Value: £156.7m

### Administrative Burdens (excluding OIOO)

Some premises may be eligible for an exemption, but need to have specific conditions on their licence to fall within the category (see consultation document). To put new conditions on the licence, a premises must submit an £89 'minor variation' application. Here we must return to the 'average licensing authority scenario'. In this scenario 59 premises will be eligible for an exemption to the levy.

Following discussions with our stakeholders, we must assume that the majority of premises in table 4 will not have the relevant conditions on their licence. However, stakeholders have also informed us that many premises still do (these conditions remain from old Licensing Act 1964 licences). On this basis, we will assume that 75% of the 59 eligible premises have to add conditions to their licence. Because of the small cost of making a minor variation, the difference in using different assumptions is very small. On the basis of this assumption, there will be an administrative burden of £3,916 ( $£89 \times (0.75 \times 59)$ ) per licensing authority and £0.4m nationally. This is a one-off transitional cost.

Should there be an administrative burden on businesses that wish to avoid the levy, we can assume this will not be greater than the potential charge they wish to avoid (as **A5**). As such, the impact is encapsulated in the 'costs' calculations above.

Further administrative burdens are borne by the licensing authority. These were estimated in **tables 6, 7 and 8**, above as:

Y0 ( <b>table 6 and 7</b> transitional costs + <b>table 8</b> administrative costs)	£22,016
Y1 – Y9 (just <b>table 8</b> administrative costs)	£12,880

All of this cost is absorbed by the late night levy revenue. As such, it is not listed as a 'cost'.

### Costs (OIOO) and Administrative Burdens (OIOO)

N/A

### TOTAL COSTS

The total cost will be entirely borne by business. The figure we have calculated above includes those that lose business from avoiding the levy – it is thus our 'best estimate'. The best lower estimate for cost is provided by the scenario that no licensing authority adopts the late night levy ('0').

As such, the total cost is:

Annual Average: £0 - £18.2m

Present Value (includes Y0 transition): £0 - £157.0m

### Benefits (excluding OIOO)

An **upper estimate** of benefit of the levy will be the money raised, should all premises in the average licensing authority scenario pay, minus the costs of administering the levy.

It may not be worthwhile for some premises to pay the levy. To gain a **best estimate** of the benefits we use **A6** (above) and estimate that 25% of late night licence holders (that are not exempt) will make a variation to their licence to avoid the levy. This reduces the number of levy payers from 189 to 102 (less 87).

Number of premises opening late in average licensing authority scenario	311
Exempted premises	59
Those liable for the levy after exemptions (table 4)	252
Number of premises avoiding the levy (assuming 25% change licence)	63
Those eligible for a 30% (A4) reduction (table 5)	87
Premises liable for full charge	102

**Table 10 – Money raised from those premises that do not change their hours**

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier
% per band (as A3)	24.07%	55.85%	13.68%	2.88%	0.41%	7.15%	0.52%
Levy charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440
Number eligible to 30% discount	21	49	12	3	0	6	0
Number of full payers	25	57	14	3	1	8	1
Total money raised	£11,870	£70,118	£28,202	£6,962	£2,730	£18,215	£4,440

The sum of premises in rows 4 and 5 amounts to 200 not 189. This is because we have rounded percentages and numbers to ensure that premises in band Dx are accounted for.

Using this table, the average charge for a full levy payer will be £845.

On this basis, the best estimate of the money raised from the levy will be £142,536 p.a. per licensing authority. On a national level, this equates to:

Annual Average: £13.4m  
Present Value: £115.3m

Row 4 in the table below gives us **high and best estimates** of the net benefits in Y0 (taking out administrative expenses). Row 5 gives this estimate for Y1-9.

The levy is an optional power. The **low estimate** assumes that no licensing authority adopts the power. The net benefit will thus be '0'.

Rows 7-10 estimates how this benefit may be used (using the assumption A7)

**Table 11 – Spending of the levy revenue (Option 3)**

		Best estimate		Upper estimate	
		Average licensing authority	England and Wales (as A8)	Average licensing authority	England and Wales (as A8)
1	Total raised by late night levy (table 10)	£142,536	£13.4m	£193,934	£18.2m
2	Y0 transitional expenses (tables 6 and 7)	£9,981	N/A	£9,981	N/A
3	Ongoing administrative expenses p.a. (table 8)	£12,880	N/A	£12,880	N/A
4	Y0 net levy revenue (1 minus 2 minus 3)	£119,675	£11.2m	£171,073	£16.0m
5	Y1-9 p.a. net levy revenue (1 minus 3)	£129,656	£12.2m	£181,054	£17.0m
6	Present values (as A8)	£104.0m		£145.4m	
<b>Split of net levy revenue (using A7)</b>					
7	Y0 to police	£83,773	£7,874,615	£119,751	£11,256,603
8	Y1-9 to police	£90,759	£8,531,365	£126,738	£11,913,353
9	Y0 to licensing authority services	£35,903	£3,374,835	£51,322	£4,824,259
10	Y1-9 to licensing authority services	£38,897	£3,656,299	£54,316	£5,105,723

The benefit of the levy is that the police are better funded and the taxpayer's burden of the costs is reduced. According to the table above, using A8 (94 authorities adopt the levy), the police nationally stand to raise around £8.5-11.9m p.a. This would achieve the overall objective of raising money for the police.

*Indirectly* there is benefit in the form of services that are provided with the money calculated above. This will depend on the licensing authority area that adopts the levy.

#### Benefits from additional revenue for police activity

The levy revenue will be passed to the local police authority to spend in line with local priorities. We cannot monetise the societal benefit resulting from the better funded police force. We are committed to giving operational independence to locally accountable police forces. On this basis, the following description of where money could be spent is provided just as an example. There are broadly two ways the police can spend their income; providing new services, or helping to pay for existing operations.

In the scenario in table 11, the police (in one area) will stand to raise between £84-120k per annum. To give a better idea of what this means, discussions with the police suggest that an average constable costs around £30 per hour (including overheads). This figure would imply that the levy could provide 2,800-4000 hours of a police constable time. This could be 2,800-4,000 hours of visible late night policing in one area per annum.

We consulted an urban-based police force on the potential for receiving income from the levy. Representatives suggested that it could fund some of the following new schemes:

- *Multi-agency education and information programmes to increase the understanding of risk to children and young persons, targeted at parents and teachers for the under 16s.*
- *Multi-agency education programmes targeting bar staff in the night-time economy to increase awareness of risks, vulnerability and consequences and their personal responsibility.*
- *Financial support for projects to expand the use of volunteers in the night -time economy with an emphasis on safeguarding vulnerable people and promoting the perception of safety*
- *High profile policing initiatives to tackle violent or disorderly behaviour*

The levy can also help fund existing operations. Conversations with police forces have indicated that they would feel justified in spending the levy money on tackling a wide range of offences, on account of them being alcohol-related. These offences can include: violence against the person (less serious); sexual offences; robbery; theft of/from motor vehicle; drugs; public disorder; complaint/nuisances.

There is no robust estimate for the cost of alcohol related crime. We do have estimates of the costs of violent crime and common assault. These were provided in the report "The economic and social costs of crime against individuals and households 2003/04"<sup>8</sup>. Cost of crime estimates should be used with care. The costs relate to total crime and they do not represent police investigations of crimes, for example, since not all crimes are reported to the police. The figures from this report were updated in 2009 to account for inflation and, in the case of the physical and emotional component of the unit costs, for growth in nominal income. We can use two of these datasets when looking at alcohol related crime – that for one violent crime ('other wounding') at £9,700 and that for one 'common assault' at £1,700. The report (reference 8 above) describes the differences between 'serious wounding' and 'other wounding'. Page 19 of the report states that 'serious wounding generally involves the use of intent'.

On the basis of these costs; £84-120k per annum would allow a local police force to cover the costs of reacting to 9-12 violent crimes ('other wounding') or 49-71 common assaults.

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<sup>8</sup> <http://webarchive.nationalarchives.gov.uk/20100413151441/crimeread/crimeread/office.gov.uk/statistics/statistics39.htm>

A late night levy will also enhance licensing authority partnerships with the police. The two bodies will work better together to tackle the negative effects of the sale of alcohol late at night.

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In the scenario in table 11, the licensing authority stands to raise £39-54k annually from the levy. Licensing authorities have indicated that they would spend this money on schemes like:

- *Late night street wardens.* These men and women will provide a visible presence on late night streets. They will help alert the police to incidents and assist door staff with problem customers.
- *Late night taxi marshals to help people get home safely and speedily.*
- *Late night street cleaning to better the business environment.* Business-led schemes often choose to provide this kind of service as a cleaner environment often encourages more visitors and a wider demographic.

Under option 3 specifically, licensing authorities are handed some discretion over who they feel should make a greater contribution towards enforcement costs incurred as a result of the late night economy. By granting exemptions and reductions, businesses are given a clear signal by their local licensing authorities on the advantages of joining a best practice scheme. Greater take-up of best practice schemes could mean a reduction in the harms in connection with the late night sale of alcohol.

The available exemption for Business Improvement Districts will allow licensing authorities to give the signal that non-regulatory business action is an alternative way to improve the late night economy and reduce policing costs.

**Administrative Savings (excluding OIOO), Benefits (OIOO), Administrative Savings (OIOO)**  
N/A

### TOTAL BENEFITS

The annual average benefit can be from £0 (no licensing authorities may adopt the levy) to £17.0m (Row 5, Table 11). The analysis above, which takes into account some premises avoiding the levy, provides our 'best estimate' of £12.2m (annual average). Summary:

Annual Average: £0 - £17.0m (Best estimate: £12.2m)  
Present Value: £0 - £145.4m (Best estimate: £104.0m)

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### Option 2 – A late night levy without exemptions and reductions

A late night levy will be a power of taxation. As such it is 'out of scope' for the purposes of one in one out.

#### Costs (excluding OIOO)

Levy payers will not receive added costs from the late night levy beyond the charge itself. Payment will be in tandem with the current annual licence fee. As such, holders of a 'relevant late night authorisation' will bear an **ongoing** annual cost as specified in **Table 2** above.

Premises which decide to avoid the levy will bear the cost of loss of business up to the level of the levy charge (**under assumption A5**).

**Table 12 - Cost to business in average licensing authority from late night levy option 2**

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
Breakdown by band using <b>A3 x A2</b>	75	174	43	9	1	22	2	326



Maximum cost per business	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	-
Maximum cost to business per band	£22,425	£133,632	£54,137	£12,285	£2,730	£32,846	£8,880	£266,935

The sum of premises in row 2 amounts to 326 not 311. This is because we have consistently rounded percentages and numbers to ensure that premises in Band Dx and Ex are accounted for.

As a result, the maximum cost to business in the average licensing authority scenario will be £266,935 multiplied by the number of licensing authorities that adopt the levy. Using 94 (A8), the cost is estimated as:

Annual Average: £25m  
Present Value: £215.2m

This approach would disproportionately affect the hospitality industry. Though they sell alcohol late at night, hotels and restaurants generally only sell to overnight or dining patrons. All these premises would have to pay the late night levy. Some may choose to stop selling alcohol late at night. This may affect the nature of hotel services.

### Administrative Burdens (excluding OIOO)

Administrative burdens are borne by the licensing authority. For business there will be little administrative burden as the levy is paid in tandem with the licence fee and businesses will be given good warning of their liability. Administrative burdens on the licensing authority were estimated in **tables 6, 7 and 8**, above.

Y0 ( <b>table 6 and 7</b> transitional costs + <b>table 8</b> administrative costs)	£20,918
Y1 – Y9 (just <b>table 8</b> administrative costs)	£12,040

All of this cost is absorbed by the late night levy revenue. As such, it is not listed as a 'cost'.

### Costs (OIOO) and Administrative Burdens (OIOO)

N/A

### TOTAL COSTS

The total cost will be entirely borne by business. The figure we have calculated above includes those that lose business from avoiding the levy – it is thus our 'best estimate'. The best lower estimate for cost is provided by the scenario that no licensing authority adopts the late night levy ('0'). As such, the total cost is:

Annual Average: £0 - £25m  
Present Value: £0 - £215.2m

### Benefits (excluding OIOO)

An **upper estimate** of benefit of the levy will be the money raised, should all premises in the average licensing authority scenario pay, minus the costs of administering the levy.

It may not be worthwhile for some premises to pay the levy. To gain the **best estimate** of the benefits we use **A6** (above) and estimate 25% of late night licence holders will make a variation to their licence to avoid the levy. This reduces the number of levy payers from 311 less 78 = 233.

### Table 13 – Money raised from those premises that do not change their hours (Option 2)

	Band A	Band B	Band C	Band D no multiplier	Band D with multiplier	Band E no multiplier	Band E with multiplier	Total
% of premises in each band (as T.3 above)	24.07%	55.85%	13.68%	2.89%	0.41%	7.15%	0.53%	-
Levy payers	56	130	32	7	1	17	1	244
Levy Charge	£299	£768	£1,259	£1,365	£2,730	£1,493	£4,440	-

(as T.2 above)								
Amount raised	£16,744	£99,840	£40,288	£9,555	£2,730	£25,381	£4,440	£198,978

The sum of premises in row 2 amounts to 244 not 233. This is because we have consistently rounded percentages and numbers to ensure that premises in Band Dx and Ex are accounted for.

On this basis, the best estimate of the money raised from the levy will be £198,978 p.a. per licensing authority. On a national level, this equates to:

Annual Average: £18.7m

Present Value: £161.0m

Row 4 in the table below gives us **high and best estimates** of the net benefits in Y0 (taking out administrative expenses). Row 5 gives this estimate for Y1-9.

The levy is an optional power. The **low estimate** assumes that no licensing authority adopts the power. The net benefit will thus be '0'.

Rows 7-10 estimates how this benefit may be used (using the assumption A7)

**Table 14 – Sample spending of the levy revenue p.a., using lower estimate above (Option 2)**

		Best estimate		Upper estimate	
		Average licensing authority	England and Wales (as A8)	Average licensing authority	England and Wales (as A8)
1	Total raised by late night levy (table 13)	£198,978	£18.7m	£266,935	£25.1m
2	Y0 transitional expenses (tables 6 and 7)	£9,438	N/A	£9,438	N/A
3	Ongoing administrative expenses p.a. (table 8)	£11,760	N/A	£11,760	N/A
4	Y0 net levy revenue (1 minus 2 minus 3)	£177,780	<b>£16.7m</b>	£245,737	<b>£23.1m</b>
5	Y1-9 p.a. net levy revenue (1 minus 3)	£187,218	<b>£17.6m</b>	£255,175	<b>£24.0m</b>
6	Present values (as A8)		<b>£150.6m</b>		<b>£205.7m</b>
<b>Split of net levy revenue (using A7)</b>					
7	Y0 to police	£124,446	£11,697,924	£172,016	£16,169,495
8	Y1-9 to police	£131,053	£12,318,944	£178,623	£16,790,515
9	Y0 to licensing authority services	£53,334	£5,013,396	£73,721	£6,929,783
10	Y1-9 to licensing authority services	£56,165	£5,279,548	£76,553	£7,195,935

The benefit of the levy comes in the services that are provided with the money calculated above. This will depend on the licensing authority area that adopts the levy. The levy revenue will be passed to the local police authority to spend in line with local priorities. This should provide a benefit to business through a safer late night operating environment.

A late night levy will also enhance licensing authority partnerships with the police. The two bodies will work better together to tackle the negative effects of the sale of alcohol late at night.

Further analysis of benefits can be found in the analysis of option 3 (above).

**Administrative Savings (excluding OIOO), Benefits (OIOO), Administrative Savings (OIOO)**  
N/A

#### **TOTAL BENEFITS**

The annual average benefit can be from £0 (no licensing authorities may adopt the levy) to £24.0m (Table 11, Row 5). The analysis above, which takes into account some premises avoiding the levy, provides our 'best estimate' of £17.6m (annual average). Summary:

Annual Average: £0 – 24.0m (Best estimate: £17.6m)

Present Value: £0 - £205.7m (Best estimate: £161.0m)

**Options B – Commence EMROs as they stand in primary legislation and Option C – commencing EMROs with nationally prescribed exemptions**

Licensing authorities will have to prove that the EMRO is 'appropriate' to furthering the licensing objectives (namely; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm). As long as this is satisfied, here are some of the variables that will affect the overall impact of an EMRO:

- EMROs can be applied in the whole or part of a local authority area. Some licensing authorities may only apply it to a few problem premises, others may apply it to a problem street.
- We cannot be sure how many licensing authorities will adopt an EMRO, and where they do it and how many they may apply.
- EMROs can apply on any or all days a week.
- EMROs can apply flexibly between midnight and 6am.
- EMROs can last for as long as the authority can show that its existence furthers the licensing objectives.
- We have no way of estimating how many businesses may make representations against or in favour of the EMRO, this will depend on how well the EMRO is designed and what initial scoping is done.

On account of these variables, it was difficult to predict the national impact of Early Morning Restriction Orders. This was noted in the Impact Assessment for the Police Reform and Social Responsibility Bill.

This variance is a consequence of the Government's desire to empower localities to determine their own outcomes. The impact of EMROs will vary according to local circumstances and how a licensing authority wishes to react. Government intervention was necessary to give licensing authorities the power to deal with these situations.

Based on early pre-consultation, we expect the EMRO to be a focused power and a valuable tool for licensing authorities to use in hotspots of alcohol related crime and disorder. Where it is adopted, the assumption is that costs to business through loss of sales are transferred as a benefit to society through a safer late night economy (and in the form of reduced policing and enforcement costs).

In order to provide some analysis, we will undertake a 'breakeven analysis' to roughly estimate the loss of business resulting from an EMRO and an equivalent benefit to society from the reduction in crime. **The government is committed to letting local areas make informed choices for their own situations.** The following analysis is by no means a government suggestion of how a local authority should calculate the worth of an EMRO. Any guidance on the decision to adopt an EMRO and interpretation of primary and secondary legislation shall be found in the statutory Licensing Act 2003 Section 182 guidance.

#### *Cost – loss of business from an EMRO*

To help us estimate the impact of an EMRO, we create a sample EMRO in a specific area. The following is based on a number of assumptions, namely, the characteristics of the sample EMRO and the nature of the affected premises.

Discussions with licensing authority representatives have suggested that, where they are adopted, EMROs are likely to target small problem areas. Informed by discussions, we shall apply our sample EMRO to a total of 15 premises on two city centre streets. Our sample EMRO will have the following other characteristics (again, informed by discussions):

Length of EMRO – One year (as standard in impact assessments)  
Days where EMRO applies – Saturday night  
Application time – 2am to 4am

The Police Reform and Social Responsibility Bill Impact Assessment estimated the average half-day turnover for on-trade premises to be £412<sup>9</sup>. Should we assume, on the basis of discussions

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<sup>9</sup> P.20, <http://www.homeoffice.gov.uk/publications/about-us/legislation-and-policy-reform-bill/ia-alcohol-measures-bill?view=Binary>

with operational colleagues, that the premises would take the majority of its money from 4pm to 4am, then 2 hours of business will amount to a £138 turnover ((£412 x 2 half days = full day turnover)/12 hours of operations x 2 hour EMRO). The sample EMRO lasts for one year and applies once a week, thus the total loss of income for one premises subject to this EMRO from 2am to 4am would be £138x52=£7,176. EMROs will also apply to off-trade businesses, but alcohol sales are likely to form a much smaller part of their business. The estimate above should encapsulate the loss of business felt by an off-trade retailer, should it be forced to close its alcohol sales for the EMRO period. Our sample EMRO covers 15 premises. The total loss of turnover to business (to all those contained) is thus £108K per annum.

### *Cost of crime prevented by an EMRO*

The EMRO has been designed to tackle areas with specific problems with alcohol related crime. There is no robust estimate for the cost of alcohol related crime. We do have estimates of the costs of violent crime and common assault. These were provided in the report "The economic and social costs of crime against individuals and households 2003/04"<sup>10</sup>. Cost of crime estimates should be used with care. The costs relate to total crime and they do not represent police investigations of crimes, for example, since not all crimes are reported to the police. The figures from this report were updated in 2009 to account for inflation and, in the case of the physical and emotional component of the unit costs, for growth in nominal income. We can use two of these datasets when looking at alcohol related crime – that for one violent crime ('other wounding') at £9,700 and that for one 'common assault' at £1,700. The report (reference 9 above) describes the differences between 'serious wounding' and 'other wounding'. Page 19 of the report states that 'serious wounding generally involves the use of intent'.

In this analysis, we take as given that the reoccurrence of crime can be attributed to the sale of alcohol by a group of premises. We also assume that the licensing authority is legally justified in making the assumption that a regular restriction of hours would serve to prevent this crime and further the licensing objectives. Given these factors, the sample EMRO above (cost: £107,640) is monetarily justified if it prevents annually 11 incidents of less serious wounding or 63 common assaults in the area. Discussions with operational colleagues suggest this is a realistic estimate for a high crime area.

### **Administrative Burdens**

On account of the factors above, we are unable to monetise the administrative burden of an EMRO at this stage. This, again, will depend on how many are adopted, their coverage and their timings. We hope to gain a better picture of this following the consultation. To reduce costs, their decision on whether to adopt any EMROs could feasibly be taken when they renew their licensing policy statement. EMROs are a Licensing Act 2003 function. As such, the costs of imposing an EMRO are recoverable through the licence fee. The Police Reform and Social Responsibility Bill contains measures to allow licensing authorities to set fees so as to ensure cost recovery. This analysis assumes that the licensing authority decision is rational, procedurally fair, non discriminatory, ECHR compliant etc. There should be no legal fee burden for licensing authorities who adopt an EMRO should they follow the procedures that will be set out in primary and secondary legislation.

Under **option C** there may be a small administrative burden upon premises which are eligible for an exemption but do not currently meet the criteria (in terms of conditions on their licence). This will mean they will bear the burden in making a minor variation (cost: £89) to add conditions. We cannot be sure of how many premises will do this. If we assume that there are 4 exempted premises in the sample EMRO area and, as in the levy calculations at the top of page 21, 75% need to make the £89 change to their licence, then the total administrative and one off burden would be £89 x (75% of 4)= £267 per sample EMRO.

### *One In One Out (OIOO)*

Early Morning Restriction Orders will serve as an 'IN' for the purposes of One In One Out. We will need to provide some analysis to monetise the 'IN'. This is a 'consultation stage' impact assessment. We will ask consultation respondents to comment on the impact assessment and our

<sup>10</sup> <http://webarchive.nationalarchives.gov.uk/2010041315144/http://www.homeoffice.gov.uk/statistics/statistics39.htm>

design of the Early Morning Restriction Order. We hope to be provided with more detailed evidence. At this stage, we do not have an accurate estimate of how many EMROs will be adopted. In order to put a cost on the 'IN', we shall assume that 50 of these sample EMROs are applied. This figure has been estimated with reference to the late night levy section above. We estimated that 94 licensing authorities will adopt the late night levy. The EMRO is a more focused tool, so 50 can be obtained by roughly halving the levy estimate. This will result in an annual cost to business of  $50 \times \text{£}108\text{K} = \text{£}5.4\text{m}$  **annual average and a present value of £46.6m (with 3.5% discount rate the net annual equivalence is £-5.6m)**. This figure is only used to monetise our initial estimate of the OIOO burden. It will not be used in the analysis below or in the summary sheets.

The OIOO burden of **option C** is likely to be less than **option B**. The analysis above did not make any differentiation over the kinds of premises that the EMRO would apply to. To permit breakeven analysis, we assumed that 15 premises were subject to the EMRO. The analysis would be the same if 20 premises are in the area but 5 are exempt. Under the scenario above, the OIOO burden of **Option C** will decrease by  $\text{£}5.4\text{m}/15 = \text{£}0.36\text{m}$  per exempted premises in the sample area.

**Option C** would exempt certain types of business from the effect of an EMRO. The impact of exemptions will be that those businesses that commonly do not cause alcohol related crime and disorder will not be subject to the restriction. The tight definition of the categories will serve to prevent providing exempted premises with a competitive advantage. Should a hotel, for example, act in the same way as a nightclub, it would be subject to the EMRO in the same way as a nightclub. **Option C** will provide clarity for some alcohol retailers that they will not be subject to an EMRO in their area. Members of the proposed categories (namely premises which serve to overnight residents; Theatres and cinemas; Community Premises and some casinos and bingo halls [subject to cabinet committee clearances]) will not bear any costs from any EMRO. The  $\text{£}7,176$  that was estimated above as the cost to each individual business will not apply.

In sum, option C constitutes a minimisation of EMROs' burden on business

### **Option 1A – Do not commence both provisions**

This impact assessment considers regulations to be made ahead of commencing existing policies. This 'do nothing' option (no levy and no EMROs) is provided as a baseline to estimate the costs and benefits of the different potential levy and EMRO designs. As a result, we are not seeking consultation responses on this option.

In this current state the police continue to incur huge costs in the late night economy (as explained in the 'Background' section). Residents groups and others continue to comment that some town centres are becoming 'no go areas' as a consequence of alcohol related crime and disorder.

Other options (including non-regulatory options) were considered prior to laying primary legislation on the late night levy and EMROs. This impact assessment follows a consultation, response to consultation, the laying of primary legislation and the passing of primary legislation through both Houses of Parliament. The impact assessment for alcohol measures in the Police Reform and Social Responsibility Bill can be found here (<http://www.homeoffice.gov.uk/publications/about-us/legislation/police-reform-bill/ia-alcohol-measures-bill?view=Binary>)

These are two local powers and we expect licensing authorities to consider the nature of their late night economies before adopting them. This will include analysis of the costs and benefits of all the options. Policing costs and the nature of town-centre late night economies differ throughout the country. We cannot make a broad statement on the costs and benefits of the late night economy nationally.

There is an opportunity cost contained in this option through not commencing legislation that has recently been scrutinised by both Houses of Parliament and enacted [DN – pending Royal Assent later this year].

## **F. Risks**

**Option 2B –late night levy and EMROs with exemptions or reductions**

This option may also have an impact on the British hospitality and entertainment industries as restaurants, theatres, hotels and bed and breakfasts must pay a levy on their late licences or will have their late night alcohol sales affected.

### **Option 3 – late night levy with exemptions and reductions**

There is a risk that licensing authorities do not adopt any exemptions or reductions in their area. As such, the risks of the above option are repeated. The Government believes that the elected and accountable licensing authority (a part of the local authority) is best placed to make the decision on which types of premises should not make a contribution towards enforcement costs. In guidance we will suggest that licensing authorities grant exemptions and reductions.

There is also a risk that the late night levy is not adopted by any licensing authority. However, the levy has been designed as an optional tool for licensing authorities and the Government thinks it should be entirely in their hands.

### **Both Options B and C – Early Morning Restriction Orders**

There is a risk that EMROs are not adopted by any licensing authority. However, EMROs have been designed as an optional tool and, like the levy; the Government thinks it should be entirely at their discretion.

For both options the calculation of risk will be taken by the relevant licensing authorities as they choose whether to adopt the powers. This is in line with the Government’s localism agenda.

## **G. Enforcement**

We do not expect that the levy will require any significant increase in enforcement activity. The late night levy can be collected with the annual licence fee. The licence fee system is compliant with the principles of the Hampton Code. Enforcement costs only relate to non-payment.

EMROs may result in an increased enforcement cost as both licensing authorities and the police will need to ensure that premises are not contravening the order. However, the increased enforcement cost is likely to be outweighed by the reductions in enforcement costs resulting from the reduction in late night crime. This calculation will be made by the local licensing authority and police force in deciding whether to make an order. Enforcement costs will be borne by the licensing authority and local police force.

## **H. Summary and Recommendations**

The table below outlines the costs and benefits of the proposed changes.

NM = Non-monetised

M = Monetised

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>1 NM</b>	Current high costs to enforcement agencies in the late night economy	Benefits to alcohol trade
<b>A NM</b>	Alcohol related crime in specific problem areas	Benefits to alcohol trade
<b>2 M</b>	PV = £0 to £215.2m (Best - £215.2m) in cost through levy charge or loss of business	PV = £0 to £205.7m (Best - £150.6m) in benefits for services in the late night economy. I.e. More resources for the police and licensing authority services which address the effects of the sale of alcohol late at night.

2 NM	Costs to hospitality and entertainment trades.	Benefits resulting from better funded local services – a safer late night economy, assistance from wardens/taxi marshals.
3 M	PV (inc. transition) = £0 to £157.0m (Best - £157.0m) in cost through levy charge or loss of business and small transitional cost to business in changing licence to meet exemption criteria.	PV = £0 to £145.4m (Best - £104.0m) in benefits for services in the late night economy. I.e. More resources for the police and licensing authority services which address the effects of the sale of alcohol late at night.
3 NM		Benefits resulting from better funded local services – a safer late night economy, assistance from wardens/taxi marshals. Benefits for society as a result of greater take-up of best practice schemes
B NM	Costs to business from loss of business resulting from an EMRO Costs to businesses in suggested exemption categories	A safer late night economy with reductions in alcohol related crime.
C NM	Costs to business from loss of business resulting from an EMRO	A safer late night economy with reductions in alcohol related crime. Reduced costs to suggested exemption categories

Analysis in sections E and F suggests that:

Option 3 provides the most proportionate method for late opening alcohol retailers to contribute towards late night enforcement costs. It will allow licensing authorities to exempt or grant reduction to certain categories of business. Although the benefits of this option are lower, it constitutes a reduction in costs for businesses which already make contributions through other means or those businesses which licensing authorities may feel should not make a contribution at all.

Option 3 creates an additional cost of £0.4m which is out of scope for a ‘transfer’. This cost is necessary to ensure that exemption categories can be enforced. For the benefit it shall give to the hospitality industry, we believe exemption categories are worth the additional cost.

Option 1 and Option A may be most appropriate for particular localities. Both powers will be completely discretionary for licensing authorities. Should they feel that Option 1 and Option A have the greatest rationale they may choose not to use either of the powers.

Option C will have a reduced impact on certain types of business (namely those named as suggested exemption categories in the consultation document).

## I. Implementation

The Government plans to introduce these measures in secondary legislation made under the Police Reform and Social Responsibility Bill. [DN – A line will be inserted detailing when secondary legislation will be laid – currently dependant on clearances].

The Government will not implement this power on a local level. Licensing authorities will choose whether to adopt the levy. The levy will commence in local areas whenever the licensing authorities have complied with regulations by, among other things, consulting affected persons and giving sufficient notice to liable premises.

## J. Monitoring and Evaluation

The impact of the levy will be assessed as part of an internal review based on feedback from licensing authorities and the police. Please see the Post Implementation Review plan (Annex 1) and section K below.

## **K. Feedback**

The effect and appropriateness of the levy will depend on the area in which it is adopted. Licensing authorities will assess these aspects in their annual decision on whether to continue collecting the levy in the following year. The Home Office should be aware of the licensing authorities that adopt the levy and will gather feedback from these authorities.

## **L. Specific Impact Tests**

Small firms and competition explanatory memoranda are attached in annex 2



## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

**Basis of the review:** [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

In line with the Government policy on sunsetting and review of legislation, a "Duty to Review" clause is included in the Police Reform and Social Responsibility Bill and covers EMROs. This duty is applicable after a minimum of five years. In the Police Reform and Social Responsibility Bill Impact Assessment the Government committed to assess the impact of the alcohol measures in the Bill that do not qualify as regulatory measures for the purposes of "one in one out". The late night levy is included in this category. The review will be carried out alongside the statutory review of the other alcohol measures in the Bill. The review will ascertain whether expected benefits have been realised. More detail can be found in the impact assessment for the alcohol measures in the Police Reform and Social Responsibility Bill. This is listed as a source on page 6.

**Review objective:** [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The late night levy and EMROs are local powers. As such, the review will consider whether they are a proportionate and effective tool for licensing authorities to raise greater resources for enforcement services late at night or target areas with alcohol related crime and disorder issues.

**Review approach and rationale:** [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

The review will primarily be based on feedback from licensing authorities. Local areas are best placed to determine the impact and appropriateness of the policies in their area. We hope to suggest that licensing authorities write to the Secretary of State on adoption of the levy or an EMRO in their area.

**Baseline:** [The current (baseline) position against which the change introduced by the legislation can be measured]

The current baseline position will be considered in local areas when licensing authorities take a decision on whether to adopt the policies. On a national basis, the current baseline is outlined in the Impact Assessment in the consideration of police and licensing authority costs in the late night economy.

**Success criteria:** [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Success of the policies depend on whether licensing authorities deem them an appropriate tool in their area. Success on a local level will be assessed by the licensing authority on an annual basis as part of their decision to continue or scrap the levy in their area or whether they should use an EMRO.

**Monitoring information arrangements:** [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

In guidance we will consider suggesting that licensing authorities write to the Secretary of State on the adoption of the levy in their area.

**Reasons for not planning a review:** [If there is no plan to do a PIR please provide reasons here]

## Annex 2. Specific Impact Tests

### Small Firms Impact Test – Explanatory Memorandum

1. In conducting the initial consultation we were particularly mindful of the potential impact on small firms and sought to ensure that they were fully engaged.
2. Small businesses are often defined in terms of employee numbers. If we use this definition, then the vast majority of licensed trade businesses are classified as ‘small or micro businesses’. These businesses often rely on a pool of shift workers and only have a small base of full time management staff. The industry snapshot below attempts to estimate the proportion of small businesses selling alcohol in England and Wales.

Standard Industry Classification 2007	Description	Number with <10 employees in England and Wales (Micro)	Number with <20 employees in England and Wales (Small)	Number with <50 employees in England and Wales (Medium)
4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating	23,056	24,354	24,803
4725	Retail sale of alcoholic and other beverages	4,285	4,454	4,486
5510	Hotels	4,284	5,616	6,814
5610	Restaurants	46,259	51,483	53,593
5630	Public Houses and bars	32,905	38,751	40,664
Total		110,789	124,658	130,360
Percentage of total		84%	94%	98%

This table is based on data from UK Business: Activity, Size and Location – 2010 which contains data from a snapshot of the Inter Departmental Business Register (IDBR) taken on 22 March 2010. Table B3.1 provides a breakdown of the number of enterprises in the UK by Standard Industry Classification 2007 and number of employees. These numbers are scaled down to England and Wales using table B3.4 (regional distribution). These data also include those restaurants, hotels and shops which do not sell alcohol. This is likely to skew the results. In March 2010 there were 182,800 premises licenses and club premises certificates with an authorisation to sell alcohol.

#### *The late night levy*

3. The late night levy proposals can affect all types of licensed premises with a licence to sell alcohol after midnight. As such, the levy will affect small businesses.
4. The late night levy is a tax. As such, it is out of scope for the purposes of One In One Out and the micro-business moratorium.
5. The late night levy will ask for a contribution from business towards the enforcement costs generated as a result of the sale of alcohol late at night. It shall be paid by those businesses which profit from supplying alcohol late at night. Small businesses, like large ones, participate in this late night economy and should contribute to the enforcement costs incurred as a result.
6. We have not considered an exemption for small businesses based on employee numbers. Should this exemption be used, the contribution towards policing costs would be fully borne by a small minority of larger businesses. Under this scenario the amount raised will not raise a meaningful amount for policing and, as such, will undermine the objectives of the coalition commitment. The commitment to the late night levy has not

been based on the impact of different sizes of business, rather on the impact of the sale of alcohol late at night.

7. The Home Office considered business rate relief when seeking to minimise the burden on small businesses. As explained above, a definition on employee numbers does not easily suit the licensed trade. An alternative and more workable definition is provided in business rate relief provisions. This defines a 'small business' as one with a rateable value below £6,000. On this basis, we have taken the steps considered in paras. 10 and 12 below. We have also proposed an exemption for those businesses which successfully claim a relief in their business rates by virtue of being the last retail outlet in a rural settlement with a population of less than 3,000. This will be based on 'rural rate relief provisions' (more detail contained in adjoining consultation document').

#### *Early Morning Restriction Orders (EMROs)*

8. The Early Morning Restriction Order will allow licensing authorities to react to problems resulting from the supply of alcohol at specific late night times on specific days. The imposition of an EMRO must be appropriate for the furthering of the licensing objectives. A licensing authority must provide evidence to support its decision. Businesses will then be able to make representations to prove that they do not, in fact, cause alcohol related crime and disorder. As such, it would be reasonable to assume that those premises that eventually fall within an EMRO are partially responsible for alcohol related crime, public nuisance or disorder in that area.
9. EMROs are not a blanket regulation and should not be subject to any exemption for small businesses. EMROs are a tool for licensing authorities. Where an EMRO is used, it will be fully justified in the context of a reduction of crime and disorder in an area. An exemption for small businesses, using the definition above, would render the policy unusable in relation to its intention to tackle pockets of alcohol related crime and disorder.
10. EMROs are in scope for One In One Out and the micro-business moratorium. We intend to seek a waiver for this policy from the micro-business moratorium.

#### **Consultation with small firms on reducing the burden of the late night levy**

11. As an alternative to exemptions, we have consulted small firms and sought to reduce the impact of the levy on small business in a number of ways.
12. Business representatives wanted to see the levy charges varied according to the size of businesses. The levy charges have been based on rateable value. This ensures that smaller, less valuable, premises will pay a much lower levy charge. According to our indicative charges those businesses in Band A (rateable value of £0 to £4,300) will pay only £299. Data in the Impact Assessment above show that the majority of licensed premises fall within Band B (rateable value of £4,301 to £33,000). These premises will only pay £768 annually.
13. Payment on rateable value allows businesses to pay the levy with their annual licence fee. As such, there will be little added administrative burden on small businesses in paying the levy.
14. The levy charges will be uniformly calculated nationally. We will also ensure that licensing authorities give good notice to all premises which are liable for the levy in their area. As such, there will be no added compliance burden on small businesses in working out liability and calculating their charge.

15. Meetings regarding small businesses pointed out that some small businesses may want to change their opening hours to avoid paying the late night levy. As a result, the late night levy has made provision for businesses to make a change to their licence without paying a fee. This will mean that businesses can make a simple decision on whether to stay open based on income after midnight and the potential levy charge. As discussed in the accompanying Impact Assessment, the loss of business will be no higher than the charge the business wishes to avoid. For small businesses, this is a maximum of £299/£768 annually.

16. Some representatives have argued that small hospitality businesses e.g. Bed and Breakfasts should be exempt from the late night levy. The consultation attached to this Impact Assessment considers giving premises that only serve to overnight guests (late at night) as an optional exemption for licensing authorities to apply.

## Competition Impact – Explanatory Memorandum

### Do the policies:

#### 1. Directly limit the number or range of suppliers?

The late night levy does not directly limit the number or range of suppliers.

EMROs may limit the range of suppliers in an area where it is applied. The EMRO will be justified on the grounds of crime and disorder and will only limit the range of suppliers where it can provide evidence that this is appropriate to further the licensing objectives.

#### 2. Indirectly limit the number or range of suppliers?

In areas where it is adopted, the late night levy may result in a number of businesses deciding to no longer sell alcohol late at night. They will make a free change to their hours if they do not consider it profitable to pay the levy and stay open late.

There will be no greater costs for either existing suppliers or new entrants. The late night levy charges are consistent wherever it is applied and the EMRO will affect all premises equally in the specified problem area.

#### 3. Limit the ability of suppliers to compete?

EMROs will restrict the areas where some businesses can operate at specific late night times. These areas will be set to promote the licensing objectives and on the basis of crime and disorder. The levy will not limit the ability of suppliers to compete.

#### 4. Reduce suppliers' incentives to compete vigorously?

No. Neither policy will have an effect on the exchange of information between suppliers.

We expect the two policies to have a minor impact on competition. However, these cannot be monetised and quantified at this stage. We hope that the consultation will provide us with the information to be able to better understand the effects on competition.

# Annex 2 – Present Value and Average Annual Tables for options 2 and 3 only (late night levy)

## Option 2 – High

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	25.00
Total costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	23.10	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	239.10	205.68	23.91
Total benefits	23.10	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	24.00	239.10	205.68	

Net	-	1.90	-	1.00	-	1.00	-	1.00	-	1.00	-	10.90	-	9.51	-
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## Option 2 – Best estimate

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	25.00
Total costs	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	250.00	215.19	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	16.70	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	175.10	150.60	17.51
Total benefits	16.70	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	17.60	175.10	150.60	

Net	-	8.30	-	7.40	-	7.40	-	7.40	-	7.40	-	74.90	-	64.60	-
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## Option 3 – High

	Y0	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Total	Present Value	Annual Average
Transition costs	0.37	-	-	-	-	-	-	-	-	-	0.37	0.37	
Annual recurring costs	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.00	156.66	18.20
Total costs	18.57	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.37	157.03	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-
Annual recurring benefits	16.10	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	169.10	145.43	16.91
Total benefits	16.10	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	17.00	169.10	145.43	

Net	-	2.47	-	1.20	-	1.20	-	1.20	-	1.20	-	13.27	-	11.60	-
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## Option 3 – Best estimate

Transition costs	0.37	-	-	-	-	-	-	-	-	-	0.37	0.37	
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Annual recurring costs	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.00	156.66	18.20
Total costs	18.57	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	18.20	182.37	157.03	
Transition benefits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Annual recurring benefits	11.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	121.00	104.01	12.10
Total benefits	11.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	12.20	121.00	104.01	
Net	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	6.00	-	61.37	53.02	-