LATE NIGHT LEVY

WARDS AFFECTED

All

EXEMPT/CONFIDENTIAL ITEM

No

1.0 PURPOSE

1.1 To determine whether there is a viable proposal from Merseyside Police to introduce a late night levy.

2.0 BACKGROUND

2.1 The Late Night Levy is a power conferred on the Council as the licensing authority by the Police Reform and Social Responsibility Act 2011 ("the Act"). It enables local authorities to charge an annual fee to persons who are licensed to sell alcohol late at night in the Authority’s area as a means of raising a contribution towards the costs of policing the late night economy. The levy would be payable by the holders of premises licences or club premises certificates that sell or supply alcohol between midnight and 6am.

2.2 The Council has received a request from Merseyside Police to consider the introduction of a levy.

3.0 INTRODUCTION OF THE LEVY

3.1 The decision to introduce the levy is for the licensing authority to make, i.e. the Council’s Licensing & Environmental Protection Committee. The licensing authority is expected to consider the need for a levy with the Chief Officer of Police and the Police and Crime Commissioner ("the PCC").

3.2 It is the view of the Chief Officer of Police that in order to ensure that St. Helens remains safe for those who enjoy the night time economy, the introduction of a levy is desirable. The Police have submitted crime statistics dated July 2013 as part of their review of town centre policing of the night time economy.

3.3 The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of a formal consultation process. It is a power which the licensing authority may not consider to be appropriate to exercise if there is not a large number of premises which are licensed to sell alcohol during the late night supply period. It may be considered that the levy will not generate enough revenue to make it a viable option locally.

3.4 It is for the licensing authority to decide the design of the levy subject to any prescribed exemptions or reductions that may apply and the proportion of revenue
(after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities.

3.5 The licensing authority must consider the desirability of introducing a levy in relation to the matters set out in Section 125(3) of the Act. These matters are the cost of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

3.6 Any consultation document should state the intention to introduce a levy, its proposed design (including the late night supply period and any proposed exemption/reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue. The consultation would be published online and in a local newspaper. Details would be sent to the PCC, the Chief Officer of Police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply.

3.7 The licensing authority would assess the consultation responses and make a final decision about whether to introduce the levy and its design. The decision to introduce the levy and its design would then be put to full Council to approve.

3.8 Holders of relevant licences may make a free variation to their licence to reduce their licensed hours to avoid operating in the late night supply period.

4.0 DESIGN OF THE LEVY

4.1 The levy must apply to the whole of the licensing authority’s area. It would apply to all holders (on and off-trade) of relevant late night authorisations. Any such holder would be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. This includes supermarkets with a 24 hour licence regardless of their actual opening hours.

4.2 The late night supply period must begin at or after midnight and end at or before 6 am. The period can be for any length of time within those parameters, but must be the same every day.

4.3 The levy would not apply to Temporary Event Notices (TEN’s). Premises may apply for up to 12 TEN’s per year. There are 4 bars in the town centre that currently have, with agreement from the Police, an additional 12 “special day” provisions per calendar year for 5am licences in their licence conditions. These are in addition to 12 TEN’s. The Police generally do not object to TEN’s applications in respect of town centre premises. They tend to manage these events by agreeing ‘operating policies’ with the premises such as extra door supervision.

5.0 EXEMPTIONS FROM THE LEVY

5.1 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night time economy through the levy. This is a local decision.

5.2 Licensing authorities are not able to choose a category of premises for an exemption from the levy if it is not set out in regulations. The following exemptions are prescribed in regulations:-
(a) Premises with overnight accommodation
(b) Theatres and cinemas
(c) Bingo halls
(d) Community Amateur Sports Clubs (“CASC’s”)
(e) Community premises
(f) Country village pubs
(g) New Year’s Eve – may be offered for holders in relation to premises that only have a relevant late night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1 January in every year
(h) Business Improvement Districts (“BID’s”)

6.0 REDUCTIONS FROM THE LEVY

6.1 Licensing authorities may wish to use the levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay. Eligible premises may receive a 30% reduction from the levy. Best practice schemes must meet benchmarks specified in regulations.

6.2 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief and have a rateable value of £12,000 or less. This reduction is only available to holders in relation to premises that supply alcohol for consumption on the premises.

7.0 LEVY REVENUE

7.1 The net levy revenue must be split between the licensing authority and the PCC. The licensing authority must pay at least 70% of the net levy revenue to the Police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.

7.2 There are no restrictions on what the PCC’s portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds.

7.3 The licensing authority would be able to retain up to 30% of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- the reduction of crime and disorder;
- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.

7.4 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the Police and licensing authority. Any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.
7.5 Deductible costs may include:
- preparation and publication of the consultation document;
- the collection of levy payments;
- the enforcement of levy payments; and
- the cost of processing applications for a variation in relation to the introduction of the levy.

8.0 LEVY CHARGE

8.1 The amount of the levy is prescribed nationally. The annual charges are:

<table>
<thead>
<tr>
<th>Rateable Value Bands (based on the existing fee bands)</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol</th>
<th>E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol</th>
</tr>
</thead>
<tbody>
<tr>
<td>No rateable value to £4,300</td>
<td></td>
<td>£4,301 to £33,000</td>
<td>£33,001 to £87,000</td>
<td>£87,001 to £125,000</td>
<td>£125,001 and above</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Levy Charges</td>
<td>£299</td>
<td>£768</td>
<td>£1,259</td>
<td>£1,365</td>
<td>£1,493</td>
<td>£2,730</td>
<td>£4,440</td>
</tr>
</tbody>
</table>

8.2 The levy charges are based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises’ rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy.

8.3 The levy would be collected at the same time as the annual licence fee. Any payment of the levy that is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of a club premises certificate.

9.0 ESTIMATED VALUE OF LEVY

9.1 The approximate estimated value of the levy based on licensing records as at December 2013 is:

- Band A: 23 = £6,877
- Band B: 208 = £159,744
- Band C: 48 = £60,432
- Band D: 4 = £5,460
- Band D Multiplier: 2 = £5,460
- Band E: 17 = £25,381
- Band E Multiplier: 2 = £8,880

Total £272,234

Police 70% = £190,593.80
LA 30% = £81,670.20
New Year’s Eve exemptions:

Band A: 7 = £2,093
Band B: 35 = £26,880
Band C: 6 = £7,554
Band D: 1 = £1,365
Band E: 0

Total £37,892

Grand Total £234,342

Police 70% = £164,039.40
LA 30% = £70,302.60

9.2 Any other discretionary exemptions such as theatres, bingo halls, premises with overnight accommodation etc, reductions for a best practice scheme and Small Business Rate Relief would require further analysis.

9.3 The above figures would be reduced further once the Council’s set up costs are deducted in the first year.

10.0 NATIONAL POSITION

10.1 At the time of writing this report, it is understood that Newcastle City Council and Cheltenham Borough Council are the only local authorities to have recently introduced a levy. Newcastle City Council are working on a best practice scheme which, if premises sign up to and meet the standards, they will be eligible for a 30% discount off the levy.

11.0 EARLY MORNING RESTRICTION ORDERS (“EMRO’s”)

11.1 EMRO’s have also been introduced by the Act. They enable licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6am, if they consider this appropriate for the promotion of the licensing objectives. Merseyside Police do not consider that such orders are necessary in St. Helens.

12.0 PREVIOUS APPROVAL/CONSULTATION

12.1 Nil

12.0 RECOMMENDATIONS

12.1 To determine whether there is a viable proposal from Merseyside Police to introduce a late night levy.

Angela Sanderson
Assistant Chief Executive (Legal and Administrative Services)

The Contact Officer for this report is Stephen Anders, Licensing & Land Charges Manager, Wesley House, Corporation Street, St. Helens WA10 1HF, Tel: 01744 676288.
BACKGROUND PAPERS

The following list of documents was used to complete this report and they are available for public inspection for four years from the date of the meeting, from the Contact Officer named above:

Home Office Guidance on the Late Night Levy – December 2012