

COMMITTEE:	CENTRAL LICENSING COMMITTEE
DATE:	10th DECEMBER 2012
TITLE:	NEW LICENSING POWERS - THE LATE NIGHT LEVY
PURPOSE:	FOR INFORMATION AND DECISION
AUTHOR:	HEAD OF REGULATORY DEPARTMENT

PURPOSE

This report explains the use and implications of the Late Night Levy (“the levy”), a new power conferred on licensing authorities by the provision of Chapter 2 of Part 2 of The Police Reform and Social Responsibility Act 2011 (“the 2011 Act”)

The intention of the new power is to enable the council as the Licensing authority to charge a levy to persons who are licensed to sell alcohol late at night, as a means of raising a contribution which may be used towards the cost of policing the late – night economy.

Should the Council decide to introduce the levy, it will apply to the whole of Gwynedd. The levy would be payable by the holder of a premises licence or a club premises certificate which authorise the sale or supply of alcohol beginning at or after midnight and ending at or before 6am.

Premises not wishing to operate within the levy period, so as to avoid paying the levy must apply for a free variation to the premises licence to amend the licensing hours before a levy is introduced.

It is a matter for the council to decide, if it introduces the levy, which premises or situations may be excluded from the levy; these may include –

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo Halls
- Community Amateur Sports Clubs
- Community premises
- Country village pubs
- New Years Eve

INTRODUCTION OF THE LEVY

The amended Home Office Guidance (made under s 182 of The Licensing Act 2003) (see attachment to this report) recommends that the decision to introduce, vary or end the levy is made by the Full Council, or delegated in a manner deemed appropriate by the Council.

The Council has to decide whether or not to introduce the levy; however, the council as the licensing authority is expected to discuss the need for a levy with the Chief Constable of North Wales Police and the newly elected Police and Crime Commissioner .

Informal discussions have already taken place with North Wales Police; but a formal request to consider the levy has not been received from the Police.

FINANCIAL CONSIDERATIONS

It is the Council's responsibility to carefully consider if there is a financial risk in introducing the levy; and whether the revenue that can be expected from the levy will justify the costs of introducing the levy. The council can only retain up to 30% of the levy revenue; the money must be used to fund the services provided by the council which tackle late night alcohol related crime and disorder.

A minimum of 70% of the levy revenue must be retained by the Police; but there is no obligation on the Police to use that revenue to police hot spots of crime and disorder which are attributed to the late night economy.

The Committee should consider whether or not it is appropriate to introduce the levy in Gwynedd before incurring the costs of the formal consultation process. In deciding whether the levy is a viable option, the council should consider whether or not there are enough premises licensed to supply alcohol late at night (which are not likely to be exempt) to generate enough revenue.

The annual levy charge which would apply to each licensed premises falling within the scope of the levy would be as follows -

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

THE FORMAL CONSULTATION PROCESS

Should the council in consultation with The Chief Constable and the new Police and Crime Commissioner decide to introduce the levy; there must be a full consultation process. The consultation is intended to be targeted at those affected by the levy, particularly those licence holders likely to be subject to the levy; the police, residents and other interested parties.

POSSIBLE LEGAL CHALLENGES TO THE INTRODUCTION OF THE LEVY

Solicitors acting on behalf of the trade have already indicated that they will be challenging local licensing authorities who decide to introduce the levy.

Gwynedd as a licensing authority, and North Wales Police must be able to provide evidence if challenged that the powers presently available through the Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011 have been fully utilised to tackle crime and disorder connected to the late night economy.

The Licence Review process is a very powerful tool which if utilised to its full potential by the Council and the Police working in partnership may be sufficient to achieve the desired effect; whilst not over burdening the Licensing trade at such a difficult time economically.

RECOMMENDATION

That the members of the Committee consider the implications of introducing the levy, and accept the recommendation of the Head Of Regulatory Service that the present licensing legislative powers should be fully utilised before considering the introduction of the levy in Gwynedd.