

**To the Chair and Members of the  
LICENSING COMMITTEE**

**Government Consultation regarding implementation of provisions of The  
Police Reform and Social Responsibility Act 2011.**

<b>Relevant Cabinet Member(s)</b>	<b>Wards Affected</b>	<b>Key Decision</b>
Cllr Ransome	All	No

**EXECUTIVE SUMMARY**

- 1 The purpose of this report is to advise members of the Licensing Committee of changes in legislation and to assist in formulating a response to the Home Office consultation which closes on 10 April 2012.

**EXEMPT REPORT**

- 2 There are no reasons for exemption.

**RECOMMENDATIONS**

- 3 The Licensing Committee are asked to note the contents of the report and provide feedback on the attached consultation document. When the legislation has been formally adopted a further report will be produced for clarification.

**BACKGROUND**

- 4 The Police Reform and Social Responsibility Act 2011 received Royal Assent in September 2011. The Chapter dealing with changes to the Licensing Act has requirements for further regulations and before commencement of the part of the legislation relating specifically to the 'Late Night Levy' and 'Early Morning Restriction Orders' the government is undertaking further consultation.
- 5 The consultation has a series of specific questions to be answered in order to influence the secondary legislation and guidance. The committee may wish to put forward a view for consideration by the Home Office.

6 Attached at Appendix A is a copy of the consultation document

### **'DEALING WITH THE PROBLEMS OF LATE NIGHT DRINKING'**

#### **A consultation on secondary legislation for the late night levy and early morning restriction orders.'**

A summary of the proposals in the primary legislation for Late Night Levy and Early Morning Restrictions is shown at Appendix B.

### **OPTIONS CONSIDERED**

7 There is no other option to consider.

### **REASONS FOR RECOMMENDED OPTION**

8 The committee can put forward comments as part of the consultation exercise.

### **IMPACT ON THE COUNCIL'S KEY PRIORITIES**

9

<b>Priority Theme</b>	<b>Mayor's Priorities for 2011/12</b>	<b>Implications of this initiative</b>
1. Creating a strong, connected and inclusive economy	<ul style="list-style-type: none"><li>• Drive forward the Doncaster economy</li><li>• Get the balance of public and private transport right</li><li>• Promote Doncaster as a tourist destination</li><li>• Regenerate Doncaster's town centres</li></ul>	
2. Developing stronger communities	<ul style="list-style-type: none"><li>• Encourage community harmony and cohesion. Treat people as individuals, not by reference to labels and artificial groupings</li></ul>	
3. Increasing and improving housing	<ul style="list-style-type: none"><li>• Raise housing standards and ensure that there are enough homes to suit all requirements</li></ul>	
4. Protecting and improving all our children's lives	<ul style="list-style-type: none"><li>• Continue to improve education and skills</li><li>• Build on a strengthening Children's Service</li></ul>	
5. Improving health and support for independent lives	<ul style="list-style-type: none"><li>• Encourage attitudes of self-reliance, self-improvement and mutual respect within Doncaster communities</li></ul>	
6. Tackling crime and anti-social behaviour	<ul style="list-style-type: none"><li>• Reduce crime and all forms of anti-social behaviour</li></ul>	Rebalancing the Licensing Act
7. Creating a cleaner and better environment	<ul style="list-style-type: none"><li>• Continue to protect the environment from developers, decay and architectural vandalism</li></ul>	
8. Internal Transformation	<ul style="list-style-type: none"><li>• Ensure local people get value for money from council services</li></ul>	

## RISKS AND ASSUMPTIONS

- 10 This is a consultation, there are no risks and assumptions

## LEGAL IMPLICATIONS

- 11 The Police Reform and Social Responsibility Act 2011 introduces new powers that allow Licensing Authorities to impose Late Night Levy and an Early Morning Restriction Orders. These are effectively discretionary mechanisms open to use by Licensing Authorities to deal with the problems of late night drinking and are designed to “*empower local communities to act to achieve a more viable night time economy*”. We understand the current intention is to make these powers available from this autumn. The Consultation Document gives an indication of how the law may be shaped but cannot be relied upon as being definitive. It is likely that the Home Office will determine the finer points of how such orders will operate following consideration of the Consultation responses which will result in further legislation. Responding to the Consultation Document is not a legal requirement.

## FINANCIAL IMPLICATIONS

- 12 There are no specific financial implications arising from this report.

## CONSULTATION

- 13 This is a government consultation document open to anyone to put forward views.
- 14 Where consultation is required under the new legislation that consultation will be carried out and will be subject of a report relating to these changes, once clarification and operative dates become clearer.

This report has significant implications in terms of the following:

Procurement		Crime & Disorder	
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

## BACKGROUND PAPERS

- 15 **Home Office Publication;**  
**‘Dealing with the problems of late night drinking’**

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**Summary of provisions contained in the Police Reform and Social Responsibility Act 2011 relating to Late Night Levy and Early Morning Restriction Order**

<p>1.</p>	<p><b>Late Night Levy</b> Licensing authorities may decide that a late night levy is to apply in its area, after considering:</p> <p>(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.</p>	
<p>2.</p>	<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>	
<p>3.</p>	<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 either be linked to the annual fees under s55(2) and s92(2), Licensing Act 2003 or may potentially be determined at the same time as the authority decides a levy is to apply within its area.</p>
<p>4.</p>	<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>
<p>5.</p>	<p>The licensing authority may decide upon “applicable reduction categories” that apply in its area from the levy for the levy year.</p> <p>.</p>	<p>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</p>

		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.	
5.	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.	
6.	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).	
7.	“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.	Regulations will also specify the times at which payments are to be made by the licensing authority to the local policing body.
8.	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.	Licensing authorities can decide how to publish those statements.

9.	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.	
10.	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.	
11.	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.	
12.	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.	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 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.
13.	The regulations listing “permitted exemption” and “permitted reduction” categories may relate to taking part in particular arrangements such as taking part in Pubwatch or Best Bar None schemes, or particular descriptions of premises, such as hotels or casinos.	
14.	Regulations must specify what the amount of reduction to be enjoyed by those in the permitted reduction categories is, or how the reduced amount is to be calculated, which	

	<p>must be the same for all holders of late night authorisations in that category for a levy year.</p>	
15.	<p>The arrangements relating to levies apply to licensed premises on Crown land, and that owned by the Duchies of Cornwall and Lancaster.</p>	
16	<p><b>Early morning alcohol restriction order.</b>  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>