

## Licensing Committee – 6 May 2022

<b>Title of paper:</b>	Review of Nottingham City Council Late Night Levy Scheme	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director of Community Protection	<b>Wards affected:</b> All
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<b>Other colleagues who have provided input:</b>	Ann Barrett, Team Leader, Legal Services 0115 8764411 ann.barrett@nottinghamcity.gov.uk	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	Councillor Neghat Khan 29 March 2022	
<b>Does this report contain any information that is exempt from publication?</b> No		
<b>Relevant Council Plan Key Outcome:</b>		
Clean and Connected Communities	<input type="checkbox"/>	
Keeping Nottingham Working	<input type="checkbox"/>	
Carbon Neutral by 2028	<input type="checkbox"/>	
Safer Nottingham	X	
Child-Friendly Nottingham	<input type="checkbox"/>	
Healthy and Inclusive	<input type="checkbox"/>	
Keeping Nottingham Moving	<input type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Financial Stability	<input type="checkbox"/>	
Serving People Well	<input type="checkbox"/>	
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p>This report seeks approval to commence a statutory consultation on the proposal to revoke the Late Night Levy (LNL) scheme with effect from the end of the levy period on <b>31 October 2022</b>. Any recommendation to implement the proposal following consultation will require Full Council approval.</p>		
<b>Recommendation(s):</b>		
<b>1</b>	That the Licensing Committee authorise a period of statutory consultation seeking views on the revocation of the Late Night Levy scheme to take effect from the end of the levy period on <b>31 October 2022</b> .	

## **1. Reasons for recommendations**

- 1.1 The pandemic business restrictions' regulations highlighted the financial pressures on businesses and that the revocation of the levy could be considered as an approach to reduce that burden. The Invest in Nottingham business growth strategy promotes and supports investment in the city and the LNL costs may be considered a barrier to incoming or expanding businesses.
- 1.2 The option for removal of the LNL annual payments reduces the financial burden on licensed trade businesses. The hospitality sector has come under severe pressure in the last 24 months during the pandemic because of the restricted trading conditions. This may assist in the viability of existing businesses but also those considering opening in the city which may by virtue of their planned opening hours be liable for the LNL fee. This could support revitalising the economy within this business sector.
- 1.3 Approval is required from the Licensing Committee to start a formal consultation process seeking views about the following proposal to;
  - Cease the Late Night Levy from 31 October 2022.

## **2. Other options considered in making recommendations**

- 2.1 To retain the current established arrangements for the Late Night Levy however a formal review was deemed appropriate given the significant financial pressures faced by businesses.
- 2.2 At present it is not appropriate to vary the levy due to overriding financial pressure on businesses and the revocation of the levy will resolve the burden on businesses. Any viewpoints arising from the consultation will be considered.

## **3. Background (including outcomes of consultation)**

- 3.1 The Police Reform and Social Responsibility Act 2011 empowers Licensing Authorities to charge a LNL to persons licensed to sell alcohol late at night as means of raising a contribution to fund services to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. The levy is payable by the holders of relevant late night authorisations. These are the holders of any premises licence or club premises certificate in relation to premises in the authority's area, which authorise the sale or supply of alcohol on any days during a period (the "late night supply period") beginning at or after midnight and ending at or before 6am. The levy must be applied throughout the whole of the Council's area although the Council has a discretion in the design of the levy scheme and can provide discounts or exemptions for certain holders of relevant late night authorisations as prescribed by Regulation.
- 3.2 In making a decision that a LNL is to apply to its area the authority must consider:
  - a) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
  - (b) having regard to those costs, the desirability of raising revenue to be applied in accordance with section 131 of the Act which requires not less than 70% of the net levy to be paid to the police.

The Council's proportion of the LNL must be spent on tackling late night alcohol related crime and disorder however there are no restrictions on what the police can spend their proportion on.

3.3 On 14 July 2014 Full Council approved the following LNL scheme with the levy period running from 1 November – 31 October each year:

- (1) the Levy to apply from 1 November 2014;
- (2) to be charged to premises that are authorised to sell alcohol at any time between 00:01 – 06:00;
- (3) an exemption for premises falling within the following categories as defined in Regulation 4 of the late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:
  - (a) Premises with overnight accommodation
  - (b) Theatres and cinemas
  - (c) Bingo halls
  - (d) Community Amateur Sports Clubs
  - (e) Community premises
  - (f) Premises which are a member of a BID established for relevant purposes
  - (g) Premises which only become liable for the Late Night Levy by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year
- (4) the funds raised, net of the administration costs incurred by the Licensing Authority, be split 30/70 between the Licensing Authority and the Police respectively;
- (5) the Licensing Authority's portion of the funding to be used throughout the City to support the prevention of crime and disorder caused by the night time economy during the hours of the levy. This will be achieved through the establishment of two night time Community Protection Officer posts.

3.4 The amount of levy, is based on the rateable value of the premises and the fees paid are currently:

- Band A - £299.00
- Band B - £768.00
- Band C - £1259.00
- Band D - £1365.00
- Band E - £1495.00
- Band D+ - not applicable to any premises currently in the levy
- Band E + - £4440.00

There are currently the following number of premises in each rateable band:

- A - 19
- B - 71
- C - 21
- D - 9
- E - 22
- D+ - 0
- E+ - 2

- 3.5 The LNL remains in place in the terms agreed in 2014 until such time as it is reviewed or removed following full and open consultation with those parties defined in the Act (Police & Crime Commissioner, Chief Officer of Police, holders of premises licences issued under the Licensing Act 2003 where the scheme applies or will apply).
- 3.6 Income received from the current LNL is not Council budget, merely a conduit for collection and transferral of 70% to the Police and Crime Commissioner of the net amount. The Council is entitled to deduct its administrative costs for collection (currently £22k) prior to the net amount being apportioned.
- 3.7 As indicated above, the BID was provided with an exemption from the LNL. This was because the BID already contributed to managing anti-social behaviour in the night time economy and was involved in projects that targeted retail and leisure issues including delivering strong crime prevention measures in the night time economy. Nottingham BID also took responsibility for the business crime reduction partnership in the city, including the provision of the city centre radio scheme and provision of Taxi Marshalls available every Friday and Saturday between 10pm and 4am. As such, the Nottingham BID had a strong crime and disorder focus. As the BID did not meet the statutory criteria allowing a reduction to be applied it was felt more appropriate to exempt those premises within the BID area from the levy rather than them having to pay both the BID and LNL charges. In return, the BID was required to invest money into providing community safety services for the NTE.

This exemption remains in place to date.

- 3.8 There are currently **109 premises** eligible under the BID exemption the cost of which is currently estimated to be around £129,500 as detailed below;

Band A – £299 – 0 premises		
Band B – LNL fee £768, 31 premises –	total	£23,808.00
Band C – LNL fee £1259.00, 37 premises –	total	£46,583.00
Band D – LNL fee £1365.00, 16 premises –	total	£21,840.00 and
Band E – LNL fee £1493.00, 25 premises –	total	£37,325.00

Overall total - **£129,556.00**

- 3.9 Income was heavily reduced after year one commencement as operators were allowed to submit a free minor variation to reduce the hours on their premises licence they either didn't use or to move their hours to pre-midnight so as to no longer be liable to pay.
- 3.10 For the period 1 November 2020 – 31 October 2021 the level of income received from the LNL was **£133,851.00**. As this period spanned the long periods of Covid 19 lockdown when most late-night operators could not open, the LNL fees were paid for one year only on their behalf by the Council through Additional Restrictions Grant (ARG) funding.
- 3.11 There are currently **144 Premises** in the City boundary that are liable to pay the LNL. These are business that operate after midnight and are not BID members. This fact indicates that the LNL now disproportionately impacts on businesses located outside the city centre in the local community areas where there is a reasonable but non-confirmed assumption that it impacts on the demographic population reflective of these

areas. These local businesses are likely to have a characteristic makeup that is predominantly:

- Family owned
- Single premises rather than franchise/multi outlet operations
- Entry level small business operations
- BAME owned enterprises.

Of these premises **48 in the city centre** with an NG1 postcode and **96 outside of the city centre** that currently pay the LNL. The 48 premises in the city centre broadly have a higher rateable value than those outside the centre.

#### **4. Finance colleague comments (including implications and value for money)**

- 4.1 Late Night Levy was implemented by Nottingham City Council in 2014 with the purpose to help offset the cost of policing the night-time economy. Upon implementation in 2014, the Business Improvement District (BID) were provided with an exemption, meaning that all licenced premises covered by the BID area would not have to pay the levy which reduced the expected funding – this exemption is circa £0.129m which was higher than originally anticipated. An income saving was put in place of £0.080m against this levy in 2014.
- 4.2 As this levy has remained in place during a period which spanned the periods of Covid 19 lockdown when most late-night operators could not open, the LNL fees were paid for one year only on their behalf by the Council through Additional Restrictions Grant (ARG) funding which was received from Department for Business Energy and Industrial Strategy (BEIS).
- 4.3 The Council will be required to publish a notice setting out its intention to make a decision that the LNL will cease to have effect in the City. The notice must be publicised and sent to affected licence holders, the Chief Officer of Police and the Police and Crime Commissioner as key stakeholders. The Levy will have financial implications for both Nottingham City Council and the Police and Crime Commissioner as the income from the levy is split between them on a 30% and 70% split respectively (excluding an initial £0.022m for allowable expenses to be retained by the Council).
- 4.4 The LNL can only cease on its anniversary dates and therefore the suggested end date would be 31st October 2022. The cessation of this Levy will leave the current income target unachieved within the Service – which has over the interim years increased to a total of £0.090m. No funding has been identified to mitigate this as the admin aspects are covered within a centralised Licensing Team. There would be a part year impact in both 2022 and the remaining in 2023 to the end of the final year of levy.

**Susan Turner – Senior Commercial Business Partner**

#### **5. Legal colleague comments**

- 5.1 Matters relating to the introduction and administration of the LNL are non-executive functions. Under the Council's constitution Licensing Committee has the power to consider putting proposals relating to the scheme out to consultation but any final decisions are required to be made by full Council (as Licensing Authority)
- 5.2 Whilst the Council has a wide discretion in relation to the operation of the LNL it was obliged to have regard to the costs of policing and other arrangements for the reduction

and prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am and the desirability of raising revenue to be applied to tackle alcohol related crime and disorder and the management of night time economy. These would also be relevant considerations when considering if the scheme should be amended or cease to apply.

5.3 There is a statutory requirement to consult the relevant local policing body, the chief officer of Police and holders of late night authorisations before a final decision is made as well as various advertising requirements which will to be met before a final decision on this matter may be taken.

5.4 As the current recommendation is to merely put the proposal out for consultation there is little risk at this stage however the final decision will be open. to judicial review on the usual administrative law grounds.

## 6. **Crime and Disorder Implications (If Applicable)**

6.1 Not applicable

## 7. **Social value considerations (If Applicable)**

7.1 Not applicable

## 8. **Regard to the NHS Constitution (If Applicable)**

8.1 Not applicable

## 9. **Equality Impact Assessment (EIA)**

9.1 Has the equality impact of the proposals in this report been assessed?

Yes

Attached as Appendix 1, and due regard will be given to any implications identified in it.

## 10. **Data Protection Impact Assessment (DPIA)**

10.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because it is not applicable to the proposal

## 11. **Carbon Impact Assessment (CIA)**

11.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because it is not applicable to the proposal

## 12. **List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

12.1 None

**13. Published documents referred to in this report**

- 13.1 Police Reform and Social Responsibility Act 2011, Chapter 2 of Part 2  
The Late Night Levy (Application and Administration) Regulations 2012  
The Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012