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Supplementary information for 18 November 2013 Scrutiny Board (Resources and Council Services)

Pages 1-12: Agenda item 10 – Draft inquiry report – Late Night Levy

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Scrutiny Inquiry Report

Late Night Levy

Scrutiny Board (Resources and
Council Services)
November 2013



Contents

	Page
1. Summary	3
2. Conclusions and Recommendations	5
3. Appendix 1	10



Summary

Introduction

1. Executive Board on 4 September 2013 considered a report relating to the design of a potential levy on premises licensed to sell alcohol late at night referred to as the 'Late Night Levy'. Executive Board made the following resolution;

"That the submitted report be withdrawn from the agenda in order to enable further work to be undertaken on it and also to request that the relevant Scrutiny Board consider the issues within it, prior to the matter being further considered by Executive Board."

2. Scrutiny Board (Resources and Council Services) agreed therefore to establish a working group to look at this issue. The following Members formed the working group; Councillors P Grahame, S Bentley, C Macniven, J Hardy and R Wood.
3. The working group met on two occasions and outside of these meetings considered various reports including licensing reports, the minutes and working papers from a Licensing working group and Home Office guidance. The working group took evidence from Licensing officers, Councillor Charwood, Chair of Licensing Committee and Keith Gilert, Superintendent, Chief Officer – Community Safety.
4. We do not intend in this report to restate the provisions within the Police Reform and Social Responsibility Act which conferred powers on licensing authorities to charge a levy to persons licensed to sell alcohol late at night (Late Night Levy). However it is useful to reflect on the main objective of such provision, which was to:

repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late night opening¹

Or, as one of our witnesses commented, to introduce a system whereby the 'polluter' pays.

5. As a concept we agree that the 'polluter' should pay, however we have concluded that the legislation and guidance around the Late Night Levy is a blunt instrument. It is inflexible and inherently unfair resulting in many 'non polluters' paying what is essentially an additional business tax.
6. We note that Leeds is the only West Yorkshire authority currently considering the introduction of a Late Night Levy and, of the Core Cities, only Newcastle has introduced a scheme.
7. We have concluded that we do not support the introduction of a Late Night Levy, preferring instead the development of the already successful voluntary schemes and the

¹ Home Office



Summary

investigation of the potential for geographically based Business Improvement Districts (BIDs).

8. We recommend therefore that the Executive Board does not go out to consultation on this matter.



Conclusions and Recommendations

Background

9. In formulating our position our first consideration was a review of the SWOT analysis developed by the Licensing working group.

<p>Strengths</p> <ul style="list-style-type: none"> • Raise a significant income • Revenue is regular and predictable • Council proportion can only be used to tackle crime and disorder in the night time supply period, so cannot be diverted 	<p>Weaknesses</p> <ul style="list-style-type: none"> • It will impact on voluntary schemes in the city centre • It may affect the working relationship between the council/police and licence holders
<p>Opportunities</p> <ul style="list-style-type: none"> • Only those premises who operate during the late night supply period will have to pay the levy • Can be used to directly tackle crime and disorder in the night time supply period 	<p>Threats</p> <ul style="list-style-type: none"> • It applies to the entire metropolitan area of Leeds • There is no consideration of risk • Premises could pay into the levy but not see any benefit unless the revenue contributes to schemes that benefit the entire area

10. In our opinion the strengths and opportunities identified fall short when compared against the weaknesses and threats. Our main concerns are detailed below.

Constraints of the Legislation

11. It is our view that the legislation is fundamentally flawed and this is a significant threat. If introduced the levy would apply to *all* premises within the Leeds Metropolitan area that sell or supply alcohol during a specified late night supply period, which can be any period between midnight and 6am. There is no flexibility to target a particular area, for example the City Centre only.
12. The proposal previously put before Executive Board was a supply period of 12.30am to 6am. This would generate potential revenue of £675k per annum. However nearly 53% of this would be paid for by businesses outside the City and Hunslet ward (the ward considered to be the location of the majority of alcohol related crime and disorder). The rigidity of the legislation would result in small, low risk venues like the Coach and Horses in Rothwell or the Carriers Arms in Morley having to pay an additional £768. Leeds City Museum is able to sell alcohol until 1am and would have to pay £299 and Malmaison Hotel is able to sell alcohol until 1am and would have to



Conclusions and Recommendations

pay £1,493. We do not consider this to be proportionate and it fails to make economic sense.

13. In light of this we looked at how we could design a scheme that would generate income from the city centre whilst reducing the impact on businesses outside the city centre. It is acknowledged that the majority of businesses outside the city centre are not seen as the 'polluters' (within the spirit of the legislation).

14. The potential revenue based on various start times for the proposed late night period is:

	City & Hunslet	% of total income	Rest of city	% of total income	Total
Midnight to 6am	£434,401	38%	£704,979	62%	£1,139,380
12:30am to 6am	£320,241	47%	£354,708	53%	£674,949
1am to 6am	£305,860	53%	£273,042	47%	£578,902
1.30am to 6am	£240,702	67%	£120,156	33%	£360,858
2am to 6am	£235,347	68%	£109,979	32%	£345,326
2.30am to 6am	£153,553	69%	£67,292	31%	£220,845
3am to 6am	£139,449	69%	£63,772	31%	£203,221

Levy payment per premises based on Rateable Value Band and set by legislation

15. These figures are based on the assumption that premises do not change their operating hours to avoid any levy. If premises do wish to change their operating hours the legislation requires that no charge is made by the licensing authority (but the Council will still incur the costs). This potentially could result in smaller, independent businesses closing earlier, leaving the larger operators taking all the trade, as witnessed in Morley (where smaller premises have closed for economic reasons).

16. It is our view that the income received at the point of the out of town premises not being unfairly taxed (probably at the 2am to 6am supply period) is not worth the resulting bureaucracy nor the unintended consequences in terms of additional costs to 'non polluters,' loss of goodwill from within the industry and the risk to some very successful existing voluntary and funded schemes.



Conclusions and Recommendations

Management and Spend of Late Night Levy Revenue

17. Executive Board is aware that the legislation states that at least 70% of the net revenue must be paid to the Police and Crime Commissioner (PCC) and the council retains the balance. There are no restrictions on what the PCC's share of the revenue can be spent on. The council must spend its share on:
 - (a) The reduction or prevention of crime and disorder;
 - (b) The promotion of public safety;
 - (c) The reduction or prevention of public nuisance;
 - (d) The cleaning of any highway maintainable at the public expense (other than a trunk road which is a special road) within the City or any land within the City to which the public are entitled or permitted to have access with or without payment and which is open to the air.
18. Whilst the Executive Board has been given assurances from the PCC that any revenue raised by the levy would be spent directly on issues related to the night-time economy, detail beyond that is vague. We were advised that the Safer Leeds Partnership would manage the pooled budget. However we note that the promised Memorandum of Understanding between the PCC and Safer Leeds for the management of this spend has not yet been drawn up.
19. We were advised that the Licensing Committee agreed to support the levy on the grounds that a funding model would be developed between the council and police that would ensure that revenue raised would be for additional initiatives not for funding the police budget.
20. We remain to be convinced that the income generated will be used to the benefit of all payers. Members from all political groups stated this would be a very difficult message to deliver within their respective wards. Indeed there was an element of cynicism expressed within our meeting that the Council would effectively take the negative feedback whilst the police took the lion's share of the income.
21. It is more likely that the majority of the spend will be in the city centre. We were advised that spend will be allocated according to 'threat, risk and harm'. Whilst there may be some logic in this it will be of little comfort to those in the outer areas who will see no return for their additional expenditure. Interestingly, we heard that Otley would contribute significant revenue via a Late Night Levy (£43,352, If the supply period was 12.30 to 6am) but would be unlikely to receive resources because of the lack of 'threat, risk and harm' in that area.



Conclusions and Recommendations

Impact on Voluntary Schemes in the City

22. We are also concerned about the impact implementing a levy will have on existing initiatives, such as taxi marshalling and street marshalling. These schemes are funded voluntarily by businesses in the city centre, as well as by partners. The Street Marshal scheme is entirely funded by business and has been very effective in contributing to a reduction in violent crime in the city centre. If the businesses withdraw from the street marshal scheme, we would be recommending that consideration be given to replacing the scheme with one funded by the Late Night Levy. This will of course reduce any potential positive impact of the levy as essentially the Late Night Levy will be funding what was already there.
23. Coupled with the lack of detail around how the income generated would be used, it is difficult to see what additional benefits implementing a Late Night Levy would deliver.

Alternatives to the Late Night Levy

24. We are of the view that the Council should be looking at alternative initiatives to address issues generated by the night time economy. Initiatives such as PubWatch which benefit the entire district should be expanded to include delivering initiatives such as responsible retailing, which would have a positive impact on the prevention of crime and disorder across the city, including the outer areas.
25. The expansion of existing voluntary schemes should be encouraged.
26. We also noted with interest the national expansion of Business Improvement Districts (BIDs). Executive Board received a report on the concept of BIDs and their potential to add to the economic and social wellbeing of the city at its September 2013 meeting.
27. BID proposals can be developed according to local needs and priorities but usually focus on, amongst other issues; safety and security, cleaning and maintenance and the evening economy. BIDs also have the ability to define a geographical area, unlike the Late Night Levy legislation. We noted that a Nottingham City Centre BID included the introduction of 'street pastors' who provide on-street support for the city's night time visitors, 'taxi marshalls', and 'street ambassadors'. The Nottingham BID also has a specific focus on licensed businesses to give them a voice and help promote responsible drinking.
28. We note Executive Board's openness to the private sector bringing forward proposals for a BID and would strongly recommend that the Council offers its support and expertise in helping to focus a City Centre BID which focuses on the night time economy.



Conclusions and Recommendations

Recommendations:

1. That the Executive Board does not pursue the introduction of a Late Night Levy.
2. That Officers within Licensing work with partners, including the licensing trade, to develop and enhance the various existing voluntary initiatives.
3. That the Executive Board reiterates its openness to support a BID which includes an element of initiatives to manage the night time economy.



Appendix 1

Reports and Publications Submitted

- Report of the Assistant Chief Executive (Citizens and Communities) – Late Night Levy
- Leeds City Council Licensing briefing note – Late Night Levy
- Report of the Head of Licensing and Registration – Changes to the Licensing Act 2003
- Amended Guidance on the Late Night levy – Home Office
- Licensing Working Groups – Meeting notes
- Report of Director of City Development – Leeds Business Improvement Districts
- Nottingham BID

Witnesses Heard

- Councillor Rebecca Charlwood – Chair Licensing Committee
- John Mulcahy – Head of Licensing and Registration
- Nicola Raper – Section Head - Licensing
- Susan Holden – Principal Project Officer – Entertainment Licensing
- Superintendent Keith Gilert

Dates of Scrutiny

- 24th October 2013
- 4th November 2013

Scrutiny Board (Resources and Council Services)
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