

# Notice of Meeting

---

## Licensing Committee

**Wednesday, 5 December, 2012 at 6.30pm**  
in Council Chamber Council Offices  
Market Street Newbury

Date of despatch of Agenda: Tuesday, 27 November 2012

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Jenny Legge / Jason Teal on (01635) 503043 / 519102

e-mail: [jlegge@westberks.gov.uk](mailto:jlegge@westberks.gov.uk) / [jteal@westberks.gov.uk](mailto:jteal@westberks.gov.uk)

Further information and Minutes are also available on the Council's website at [www.westberks.gov.uk](http://www.westberks.gov.uk)



To: Councillors Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Billy Drummond, Adrian Edwards, Manohar Gopal, David Holtby, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles, Ieuan Tuck, Quentin Webb and Laszlo Zverko

---

# Agenda

## Part I

Page No.

1. **Apologies**  
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 1 - 4  
To approve as a correct record the Minutes of the meeting of this Committee held on 20 June 2012.
3. **Declarations of Interest**  
To receive any Declarations of Interest from Members.
4. **Taxi Roof Signs** 5 - 18  
*Purpose:* To advise Members of a request from the trade to replace the current roof signs with a new design.
5. **Police Reform and Social Responsibility Act 2011** 19 - 28  
*Purpose:* To update Members on the introduction of the provisions for the Late Night Levy (LNL) and the Early Morning Restriction Order (EMRO) as provided for in the Police Reform and Social Responsibility Act 2011, which amends the Licensing Act 2003.

Andy Day  
Head of Strategic Support

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



**LICENSING COMMITTEE**

**MINUTES OF THE MEETING HELD ON  
WEDNESDAY, 20 JUNE 2012**

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant, Adrian Edwards, Manohar Gopal, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles, Ieuan Tuck, Quentin Webb and Laszlo Zverko

**Also Present:** Sarah Clarke (Team Leader - Solicitor), Brian Leahy (Senior Licensing Officer) and Jason Teal (Performance, Research & Consultation Manager),

**Apologies for inability to attend the meeting:** Paul Anstey, Councillor Peter Argyle and Councillor Billy Drummond

**Councillor(s) Absent:** Councillor David Holtby

**PART I**

**3. Minutes**

The Minutes of the meetings held on 20 March 2012 and 10 May 2012 were approved as a true and correct record and signed by the Chairman.

**4. Declarations of Interest**

There were no declarations of interest received.

**5. Hackney Carriage Conditions**

The Committee considered a report (agenda item 4) informing Members of a request from the taxi / private hire associations to introduce a condition requiring private hire vehicles to have a mechanical inspection, in line with taxis.

Brian Leahy drew the Committee's attention to the fact that this had been an imbalance between taxis and private hire vehicles for many years since private hire vehicles were only subject to mechanical inspections as per private vehicles, whilst taxis were subject to an MOT after the vehicle was a year old.

Brian Leahy outlined that this condition had been put out to consultation with the trade - which had concluded on the 1<sup>st</sup> June 2012. One response had been received, which had been supportive of the proposal. Brian Leahy also informed the Committee that he had discussed the proposal at a trade liaison meeting (18<sup>th</sup> May 2012) where there had been a unanimous vote from attendees to put this condition to the Committee for approval.

Brian Leahy said that since the consultation had concluded he felt that on reflection, if a condition was being set for private hire cars to undergo an MOT after the vehicle was a year old, then the same principal should apply to hackney carriages (paragraph 2.3 of the report). He noted that this seemed a sensible approach, bringing the mechanical checks for all vehicles into line.

In relation to this additional item, should Members be minded to accept the item, this would be an 'in principle' decision, allowing Brian Leahy to go out to consult with trade. The item could then be brought back to Committee, should there be no overriding objections.

## LICENSING COMMITTEE - 20 JUNE 2012 - MINUTES

Brian Leahy drew the Committee's attention to the fact that any condition put on a licence could be appealed through a Magistrate's Court. He then asked that Members consider this. It was noted that the risk of appeal was low, as no adverse comments had been received as a result of the consultation exercise, but that Members should be aware that there was a possibility that the condition could be appealed at the issue or renewal of licence.

Councillor Tony Linden asked for confirmation that the consultation would only be for the additional element of including hackney carriages within the condition. Brian Leahy confirmed that this would be case, but Officers would wait to implement the two conditions simultaneously.

Councillor Paul Bryant asked whether this condition would incur any increased cost to the trade. Brian Leahy confirmed that there might be a cost incurred through having to bring the MOT forward, but that this was an issue of timing – i.e. the MOT would have to undertaken anyway. He noted that adoption of this condition would assist the Council as it would reduce the administrative burden in sending out reminders on two separate items in relation to the renewal of a licence. It would be helpful to the trade as the two crucial dates in renewing licences would be reduced to one.

Brian Leahy reiterated the point that as this was an appeal-able decision. He would bring this matter back to the Committee after the conclusion of the consultation.

Councillor Tony Linden proposed the recommendation which was seconded by Councillor Adrian Edwards. The Committee voted unanimously in favour of the proposal.

**RESOLVED that** the motion to introduce a condition requiring private hire vehicles to have a mechanical inspection in line with taxis be carried.

### 6. Taxi Tariff

The Committee considered a report to request members to address an error in the submission for a tariff increase for 2012. Brian Leahy noted that this was a request from the trade as a result of an error made on their part in the item brought to the Committee in March on 2012/13 taxi tariffs, to do with charges applied to in-journey waiting times when the vehicle was stationary – i.e. in traffic, at lights etc.

He noted that in the initial calculations, the waiting time limit had been put at a level that reduced it rather than retained it at the 2011/12 level. He noted that the trade were not asking for an increase over last year's tariff, but to consider reinstating last year's waiting time.

As a result of the presentation of the tariff rates in March, the trade had been given an increase on the flag and mileage rate, but got a reduction in the waiting time. The amendment was therefore to simply reinstate the previous year's waiting time.

Councillor Laszlo Zverko queried the difference this amendment would make to the average fare. Brian Leahy said that that question was best answered by the trade.

*(In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman proposed suspension of standing orders to allow members of the trade to participate in the discussion and respond to questions committee members might have. This was seconded by Councillor Tony Linden and the Committee voted in favour of this proposal).*

Mr Ashley Vass introduced himself as the Treasurer of the West Berkshire Hackney and Private Hire Association. He commented that the increase in the average fare would be dependant on the amount of time spent stationary in any journey, but typically, this would equate to around 20p on a local journey: for a longer journey (i.e. around an hour) then this would typically amount to around £5.

## LICENSING COMMITTEE - 20 JUNE 2012 - MINUTES

He confirmed that this would be applied to Hackney Carriages only.

Councillor Paul Bryant enquired what the current value was. Mr Vass replied that was £15 and £22 an hour at the respective flags.

Councillor Laszlo Zverko enquired whether this would be an affordable increase for customers. Mr Vass stated that, this rate would not be different to any applied in previous years. He noted that he had received no comments on the relative cost of fares, but confirmed that this amendment would not constitute a significant increase in fares.

Brian Leahy noted again that this was an appeal-able decision. He would have to publish the amendment in the local newspaper as a consultation, which would run for 14 days. He noted that the Committee should be aware of the legal implications as a result. The Council would incur a slight cost (around £100) in terms of having to change the tariff cards and advertise.

*(The Chairman reinstated standing orders, seconded by Councillor Linden)*

The amendment was proposed by Councillor Linden, seconded by Councillor Bryant. The Committee voted unanimously in favour of the amendment.

**RESOLVED that** the amendment to the 2012/13 taxi tariff to correct an error in the application of waiting time levies be carried.

### 7. **Gambling Act 2005**

Brian Leahy introduced the paper asking for the Committee to consider the Council's review of its gambling policy statement. He explained that the Gambling Act 2005 requires that the Council have a policy statement that was reviewed every 3 years. The current policy was agreed by this committee in 2010. He noted that there was no intention to substantively amend the policy unless compelling feedback was forthcoming at consultation stage. The only changes would be to update the address of the licensing authority (page 3) and annex B (pg 13) which were points of contact for people within responsible authorities.

Brian Leahy noted that officers' view was that the policy had been robust enough over the past 3 years and made no recommendation to change it.

Councillor Adrian Edwards enquired whether members of the public could apply for a licence to be revoked if they considered a premise to be inappropriate. Brian Leahy responded that any member of the public could apply for a review of a licence.

Sarah Clarke noted that she was not aware of any powers under the Localism Act to do this: there was already the power for local communities to request a review of licences. Brian Leahy noted that he was not aware that the Localism Act overrides the Gambling Act in any of these areas.

Councillor Tony Linden noted the need for members' annual training for licensing.

Councillor Linden proposed recommendation to approve the reviewed statement; this was seconded by Councillor Gopal. The Committee voted unanimously in favour.

**RESOLVED that** the reviewed Gambling Policy Statement be approved.

*(The meeting commenced at 6.30 pm and closed at 7.00 pm)*

**CHAIRMAN** .....

LICENSING COMMITTEE - 20 JUNE 2012 - MINUTES

Date of Signature .....

<b>Title of Report:</b>	<b>Taxi Roof Signs</b>
<b>Report to be considered by:</b>	Licensing Committee
<b>Date of Meeting:</b>	5th December 2012
<b>Forward Plan Ref:</b>	N/A

**Purpose of Report:** To advise Members of a request from the trade to replace the current roof signs with a new design

**Recommended Action:** To approve the request

**Reason for decision to be taken:** Formal request from the trade

**Other options considered:** To retain the current sign

**Key background documentation:** Hackney Carriage Proprietor's (Vehicle) Licence Conditions

The proposals contained in this report will help to achieve the following Council Strategy priority(ies):	
<input type="checkbox"/>	<b>CSP1 – Caring for and protecting the vulnerable</b>
<input type="checkbox"/>	<b>CSP2 – Promoting a vibrant district</b>
<input type="checkbox"/>	<b>CSP3 – Improving education</b>
<input checked="" type="checkbox"/>	<b>CSP4 – Protecting the environment</b>
The proposals will also help achieve the following Council Strategy principle(s):	
<input type="checkbox"/>	<b>CSP5 - Putting people first</b>
<input type="checkbox"/>	<b>CSP6 - Living within our means</b>
<input type="checkbox"/>	<b>CSP7 - Empowering people and communities</b>
<input type="checkbox"/>	<b>CSP8 - Transforming our services to remain affordable and effective</b>
<input type="checkbox"/>	<b>CSP9 - Doing what's important well</b>
The proposals contained in this report will help to achieve the above Council Strategy priorities and principles by: Reducing CO2 emissions from taxis	

<b>Portfolio Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
<b>E-mail Address:</b>	hcole@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	16 <sup>th</sup> November 2012

<b>Contact Officer Details</b>	
<b>Name:</b>	Brian Leahy
<b>Job Title:</b>	Team Manager Licensing
<b>Tel. No.:</b>	01635 519184
<b>E-mail Address:</b>	bleahy@westberks.gov.uk

## Implications

---

<b>Policy:</b>	The Council has had a policy for the use of taxi roof signs for many years
<b>Financial:</b>	None
<b>Personnel:</b>	None
<b>Legal/Procurement:</b>	If adopted, the condition relevant to roof signs will be changed to reflect the new design and signage.
<b>Property:</b>	None
<b>Risk Management:</b>	None
<b>Equalities Impact Assessment:</b>	Completed and attached as Appendix A

## Executive Summary

---

### 1. Introduction

- 1.1 This report details the Council's current conditions regarding taxi roof signs and suggests a change to the sign which will increase the fuel economy of taxis and in so doing, reduce CO2 emissions from vehicles licensed as taxis.

### 2. Proposals

- 2.1 To adopt the condition proposed for a new design of roof sign.

### 3. Equalities Impact Assessment Outcomes

- 3.1 The matter has been discussed with the taxi trade at all levels and the EIA has been completed.

### 4. Conclusion

- 4.1 The proposals put forward in the report appear to demonstrate that the new design of roof sign will give greater efficiency, reduce emissions and is welcomed by the trade in general.



## Executive Report

---

### 1. Introduction

- 1.1 At a meeting of the Public Protection Committee held on the 9th January 2001, Members resolved to adopt, in principle, a condition that the design of roof sign be that, referred to, in paragraph 3.4 of the report considered (see Appendix B) and as illustrated in Appendix 5 to the report. The adoption was fully approved at the Public Protection Committee held on the 6<sup>th</sup> March 2001.
- 1.2 Paragraph 3.4 of that report has been included with this report as Appendix B. Unfortunately, Appendix 5 to the 2001 report has been archived and is unavailable however, a photograph of the approved roof sign design is included as Appendix C.
- 1.3 Some of the roof signs are now showing considerable wear and are of a design which is not particularly aerodynamic and over time have, and will continue, to increase fuel costs to the operator.
- 1.4 The trade has produced to officers, a more aerodynamic design of roof sign and a short mileage test has been conducted to determine whether or not there are savings in fuel consumption by changing the current sign to the new design. A photograph of the new design is shown at Appendix D.
- 1.5 Any savings will of course be dependant upon the type of vehicle used, its age, mileage, condition of tyres etc and other contributory factors. However, the test exercise showed a fuel saving of between 3 - 4%.
- 1.6 A further outcome of reduced fuel consumption is a considerable reduction in CO2 emissions from the vehicles. The test demonstrated that the vehicle used with the new sign affixed, could have a reduction in CO2 emissions by as much as .5 tonnes doing around 20,000 miles per year, over the current sign.
- 1.7 If Members were to approve the replacement roof sign the condition would only be attached to hackney carriages.
- 1.8 A date for the introduction of the sign will have to be determined. Members will have to consider whether or not they feel that a phased in programme would be a better option than having a definitive date by which all vehicles would have to comply.
- 1.9 One option put forward by the trade, was that if the condition is approved, any taxi owner could choose to change to the new sign immediately, with those who choose not to, having to comply by the next renewal of the vehicle licence.
- 1.10 This would create a two tier system for possibly up to a year, which could cause some confusion for taxi users. However, it would be a pragmatic approach where immediate funding is a problem.
- 1.11 The signs are relatively low cost and have a long life LCD internal light which is said to have a lifespan of around 10 years. Browsing the internet has shown that signs of the same design, or very similar to Appendix D, range between £40.00 and £80.00. It follows that the saving in fuel costs should fairly quickly fund the cost of the sign over a relatively short period of time, depending on the mileage travelled.

# DRAFT DOCUMENT

- 1.12 It would seem unreasonable to require a sign which is available from only one dealer and which may not be one of the cheaper products on the market.
- 1.13 Members may therefore wish to consider that, a sign which is similar in design, shape and dimensions as that shown at Appendix D to this report, could be approved subject to officer discretion. The sign shown at Appendix D has dimensions of 60 cm L x 17.5cm W x 11cm H. The “side on” dimensions are 3 cm high at the front x 11cm high at the rear x 17.5 cm wide. The sign will be available for inspection at the meeting.
- 1.14 Those vehicles which have a factory fitted sign such as London Style Cabs or those such as the larger MPV’s or similar, will be exempt the condition, (as they are currently), where a manufacturers sign has been specifically designed for the vehicle and is not of a magnetic type, but is built into the vehicles fabric. Acceptance of such signs would be at the discretion of officers.
- 1.15 If Members choose to adopt the condition it is suggested that the Team Manager – Licensing will rewrite the standard condition to refer only to the new design of roof sign. This will cover not only the design of the sign but also colours/shades and font of all logos and sign livery, other than the optional personal advertising on the rear of the sign.
- 1.16 It is intended that if the sign is approved the wording and design of the corporate logo will be that as shown on the sign at Appendix D.
- 1.17 Where the sign is to be used by a wheelchair accessible vehicle the free space to the near side front of the sign will have a wheelchair logo, as shown in Appendix E.

## **2. Recommendation**

- 2.1 Officers recommend that the new design roof sign be approved, with officer discretion to be the deciding factor where slight variations in size etc occur.
- 2.2 In order to satisfy the guidance from DfT and the local agreement with the trade associations, a consultation letter was sent to all hackney carriage vehicle licence holders on the 16<sup>th</sup> November 2012. The letter contained photographs of the proposed sign, both side and front views. This consultation will end on the 28<sup>th</sup> December 2012.
- 2.3 Discussions with owners and general verbal consultation, on the ranks, have strongly indicated that the trade are happy for this change of roof sign. Officers therefore recommend that any responses from consultation that are against the change are considered by the Chairman and the Team Manager Licensing. The Chairman’s decision being final unless there is overwhelming objection to the proposal, in which case, the matter would be brought back to Members at the next Licensing Committee meeting on the 20<sup>th</sup> March 2013.
- 2.4 If the decision is made to approve the new sign, officers recommend that the condition should apply regardless of whether sections 1.8 and 1.9 of this report suggest taking effect from the 1<sup>st</sup> January 2013.

# DRAFT DOCUMENT

## Appendices

---

- Appendix A – Equality Impact Assessment – Stage 1
- Appendix B – Paragraph 3.4 of Public Protection Committee Report 9/1/2001
- Appendix C - Photograph of currently approved roof sign.
- Appendix D - Photograph of new design roof sign.
- Appendix E – Wheelchair logo

## Consultees

---

- Local Stakeholders:** Taxi Trade Liaison meeting members and trade, in general.
- Officers Consulted:** Paul Anstey Joint Service Delivery Manager, Julia O'Brien Principal Officer Licensing, Phil Newton Senior Energy Efficiency Officer. Full consultation with Hackney Carriage Proprietor's Licence holders.
- Trade Union:** None

## APPENDIX A

### Equality Impact Assessment – Stage One

<b>Name of item being assessed:</b>	Taxi Roof Signs
<b>Version and release date of item (if applicable):</b>	V1 12 <sup>th</sup> November 2012
<b>Owner of item being assessed:</b>	Steve Broughton
<b>Name of assessor:</b>	Brian Leahy
<b>Date of assessment:</b>	12 <sup>th</sup> November 2012

<b>1. What are the main aims of the item?</b>
To request a change in design for taxi roof signs.

<b>2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.</b> (Please demonstrate consideration of all strands – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation)		
<b>Group</b>	<b>What might be the effect?</b>	<b>Information to support this.</b>

# DRAFT DOCUMENT

<b>Affected</b>		
None	None	None
<b>Further comments relating to the item:</b>		
None		

<b>3. Result</b> (please tick by clicking on relevant box)	
<input type="checkbox"/>	<b>No Relevance</b> - This <b>does not</b> need to undergo a Stage 2 Equality Impact Assessment

**For items requiring a Stage 2** equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

<b>4. Identify next steps as appropriate:</b>	
Stage Two not required:	

**Name:** Brian Leahy

**Date:** 12<sup>th</sup> November 2012

## Appendix B

### (Para 3.4 of report to the Public Protection Committee 9/1/2001

The roof sign will have a uniform triangular cross section along its length, referred to by some sign manufacturers as the “toblerone shape”. The long dimension will be approximately 25 inches (625 mm). The base will be approximately 8 inches (200 mm) and the height will be approximately 6 inches (150 mm). Reference should also be made to any illustrative art work, or model signs, provided by the Council to show the approved design.

The roof sign will be white in background colour. When lit, the sign must show red to the rear but not red to the front and sides.

The roof sign must be connected to the taximeter to be automatically controlled. The roof sign must be lit when the taximeter is not active and not lit when the taximeter is in use.

The front face of the roof sign will show the words “West Berkshire Council” in the form of the Council’s logo including words and the Coat of Arms below the word “TAXI” Licensed by, and the licence number, within a circle, on both sides of this wording.

The words and the circles will be in green colour, code PMS 334. (other codes may be acceptable, e.g. APA, Moss Green, code E/494.1, or Matic 9800’s series, Medium Green, code 5-491).

# DRAFT DOCUMENT

TAXI will be in capitals, in Swiss Condensed font and approximately 3 inches (80mm) tall.

The circles will be approximately 5.5 inches (135mm) in diameter and have the number cut out, 2.5 inches (60mm) tall.

The front face will not show anything else.

The two triangular ends of the roof sign will be white, as will the front and will show the number of the licence in a circle as on the face side. This circle will be in the same green and be approximately 4 inches (110mm) in diameter, with the numbers 1.5 inches (40mm) tall.

Reference should be made to any illustrative art work or model signs provided by the Council.

The rear face of the roof sign will show the licence number (once only) to the same specifications as on the front. The number may be positioned anywhere on the rear face at the discretion of the licensee. The licensee may use the remaining space for any reasonable use. Examples of reasonable use include the word "TAXI", the name of the proprietor and the telephone number of the proprietor. This text does not have to be green, (although the number does). All inappropriate or unauthorised signage will be required to be removed.

Minor variations from the specification may be permitted at the discretion of the Council's Licensing Officers and must be requested in writing. Any variations granted will be confirmed in writing and may be subject to conditions.

In the event of the Council's Licensing Officers not being satisfied that a roof sign meets the specification, the conditions of the vehicle licence will be deemed to have been breached and the proprietor requested to remedy the defect. The licensee of the vehicle may then be subject to a penalty within any point's scheme should one be in existence at the time and if not suitably rectified may have the sanction of law imposed.

Vehicles which are purchased as custom constructed taxis that have a sign provided by the manufacturer, which is not a sign fitted into the fabric of the vehicle, must apply in writing to the Council, for any variation to the approved signage detailed above.

This page is intentionally left blank







This page is intentionally left blank





This page is intentionally left blank



This page is intentionally left blank



<b>Title of Report:</b>	<b>Police Reform &amp; Social Responsibility Act 2011</b>
<b>Report to be considered by:</b>	Licensing Committee
<b>Date of Meeting:</b>	5 <sup>th</sup> December 2012
<b>Forward Plan Ref:</b>	N/A

**Purpose of Report:**

To update Members on the introduction of the provisions for the Late Night Levy (LNL) and the Early Morning Restriction Order (EMRO) as provided for in the Police Reform and Social Responsibility Act 2011, which amends the Licensing Act 2003.

**Recommended Action:**

To note the content of the report pending a further report in 2013.

**Reason for decision to be taken:**

The Act is now active and Members will shortly have the option of adopting the LNL and/or the EMRO, following consultation

**Other options considered:**

None

**Key background documentation:**

The Police Reform & Social Responsibility Act 2011

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**

# DRAFT DOCUMENT

- CPT14 - Effective People
- CPT15 - Putting Customers First
- CPT16 - Excellent Performance Management

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

giving the Council, in conjunction with Thames Valley police, increased control over the night time economy thus reducing crime and the fear of crime.

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	16 <sup>th</sup> November 2012
Contact Officer Details	
Name:	Brian Leahy
Job Title:	Team manager Licensing
Tel. No.:	01635 519184
E-mail Address:	bleahy@westberks.gov.uk

## Implications

**Policy:** The provisions

**Financial:** If the Late Night Levy is adopted, licensing income will increase, however approximately 70% of the net income must be paid to the police in order to fund any increase in police support in controlling the late night economy that may be required. At the time of writing this report the full extent of any increased income is not known.

If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Finance Manager. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.

**Personnel:** None at this time

**Legal/Procurement:** Adoption of the appropriate section of the Act will be required.

**Property:** None

**Risk Management:** The risk to the economy could be that premises which are subjected to the levy could choose to reduce their opening hours to before midnight thus being outside of the levy provisions. None to the Council.

**Equalities Impact Assessment:** Completed

**Corporate Board's Recommendation:** To be completed after the Corporate Board meeting.

**NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.**

**DRAFT DOCUMENT**

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <span style="float: right;"><input type="checkbox"/></span></p> <p>Delays in implementation could have serious financial implications for the Council <span style="float: right;"><input type="checkbox"/></span></p> <p>Delays in implementation could compromise the Council's position <span style="float: right;"><input type="checkbox"/></span></p> <p>Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months <span style="float: right;"><input type="checkbox"/></span></p> <p>Item is Urgent Key Decision <span style="float: right;"><input type="checkbox"/></span></p> <p>Report is to note only <span style="float: right;"><input type="checkbox"/></span></p>		

## Executive Summary

---

### **1. Introduction**

- 1.1 The Police Reform & Social Responsibility Act 2011 was given Royal Assent on the 20th September 2011.
- 1.2 Chapter 2 of the Act amends the Licensing Act 2003 and will make quite considerable differences to a number of sections of the Licensing Act. These will have implications for the way in which Licensing Authorities operate in the future.
- 1.3 A summary of the provisions of the appropriate sections of the Act follows in the main body of this report.

### **2. Proposals**

- 2.1 Members, after carefully considering the main provisions of the changes, will be asked to take a decision in the first part of 2013 to either adopt, or not adopt, certain important aspects of the Act, which could impact on the local late night economy and on the licensing income stream for the Council and the Police.

### **3. Conclusion**

- 3.1 Thames Valley Police will have an important role to play in the decision to adopt or not adopt Chapter 2, and in the delivery of the adopted provisions by the Council, of the legislation.
- 3.2 If a decision is taken to adopt these provisions, the matter must be approved by full Council. However, a further report would need to be submitted to the Licensing Committee early in 2013 prior to going to full Council



## Executive Report

---

### 1. Introduction

- 1.1 This report follows on from a previous report presented to Members on the 20<sup>th</sup> March 2012.
- 1.2 Members agreed to authorise Officers to respond to the Home Office consultation on the Late Night Levy and Early Morning Restriction Orders.
- 1.3 Response to the consultation was published in July 2012.
- 1.4 The Dealing with the Problems of Late Night Drinking consultation invited views on two measures in the Police Reform and Social Responsibility Act 2011. (“the 2011 Act”) that will be implemented through regulations: early morning restriction orders (“EMROs) and the late night levy (“the levy”). The consultation closed on the 10<sup>th</sup> April following a 12 week consultation period.
- 1.5 The Coalition Agreement included a commitment to overhaul the Licensing Act 2003 to give local authorities and the police stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems in the local area. The 2011 Act extended the flexibility of the existing (uncommenced) EMRO powers in the 2003 Act to provide licensing authorities with an additional tool to shape and determine local licensing. EMROs will allow licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between midnight and 6am, if they consider this appropriate for the promotion of the statutory licensing objectives.
- 1.6 The Coalition Agreement also included the commitment to permit local councils to charge more for late night licences to pay for additional policing. The levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether or not to adopt. It must cover the entire area. However the licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night.

### 2. EMROs

- 2.1 EMROs will help licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. Local authorities, acting in their capacity as a licensing authority, will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. This restriction applies to premises licences, club premises certificates and temporary event notices.
- 2.2 The Secretary of State will publish regulations outlining the approach that a local authority must take should it wish to introduce an EMRO, in due course.

### 3. General Outcomes of Consultation

# DRAFT DOCUMENT

- 3.1 There will be no requirement for licensing authorities to notify all holders of club premises certificates and holders of premises licences in the authority area where an EMRO is made.
- 3.2 EMROs will not apply on New Years Eve.
- 3.3 The supply of alcohol to residents through mini bars and room service only, in premises with overnight accommodation is not to be subject to an EMRO.
- 3.4 There will be no other exemptions from EMROs for premises selling alcohol between midnight and 6am.

## **4. Late Night Levy**

- 4.1 The late night levy is a power for licensing authorities to introduce a charge for all premises in the local authority area that are authorised to sell alcohol between midnight and 6am, throughout the whole of the local authority area. The option to implement the levy will be left entirely at the discretion of the licensing authority, which will make the decision based upon the situation in its local area. In the areas in which it is introduced, the levy will be collected annually and the revenue will be split between the licensing authority and the police.
- 4.2 Guidance and regulation will be issued in due course.

## **5. General Outcomes of Consultation**

- 5.1 Premises with overnight accommodation will be included as a discretionary local exemption from the levy.
- 5.2 Restaurants will not be exempt from the levy.
- 5.3 Theatres and Cinemas will be included as a discretionary local exemption from the levy.
- 5.4 Casinos with a membership scheme will not be exempt from the levy.
- 5.5 Bingo halls will be included as a discretionary local exemption from the levy.
- 5.6 Community Amateur Sports Clubs will be included as a discretionary exemption from the levy, provided that such premises have relief from business rates by virtue of being a CASC (definition found in section 658 of the Corporation Tax Act 2010). CASCs such as golf and yacht clubs, are not typically part of the wider night-time economy. CASCs have a specific status and therefore would be a simple exemption for licensing authorities to adopt, if appropriate, for their area.
- 5.7 Community premises will be included as a discretionary exemption from the levy, provided that such premises have successfully applied for the removal of the mandatory Designate Premises Supervisor requirement and demonstrated that they operate responsibly.
- 5.8 Country Village Pubs will be included as a discretionary exemption from the levy, subject to specific definitions. This exemption is applicable to those premises which are within designated rural settlements with a population of less than 3000. Rural settlements are defined by a local authority.

# DRAFT DOCUMENT

- 5.9 Business Improvement Districts (BIDs) that operate in the late-night economy, with a satisfactory crime and disorder focus, will be included as a discretionary exemption from the levy.
- 5.10 Premises operating under a club premises certificate will not be exempt from the levy.
- 5.11 New years Eve will be included as a discretionary exemption from the levy.

## 6. Reductions

- 6.1 Licensing authorities may wish to use the late night levy to promote and support participation in other business-led best practice schemes. These schemes encourage businesses to join to address some of the negative effects of selling alcohol. The following schemes are an example of those which may be considered for a reduction of the levy: Best Bar None, Club or Pubwatch, Shopwatch, Community Alcohol Partnership and BID.
- 6.2 The Government want to ensure that licensing authorities are able to offer a reduction to the schemes that make a difference in their area therefore, licensing authorities will be able to offer a discretionary reduction to best practice schemes that meet relevant criteria.
- 6.3 Legislation will prescribe a basis upon which licensing authorities should make decisions on whether a best practice scheme in their areas could receive a reduction from their required levy payment.
- 6.4 Certain types of on-trade premises that receive small business rate relief will be eligible for a discretionary reduction from the levy. This will apply to certain types of premises that are in receipt of a small business rate relief and have a rateable value of less than £12,000.
- 6.5 There will be no further exemptions from the levy.
- 6.6 The levy will be split between the police and the licensing authority. The licensing authority can retain up to 30% of the **net** levy revenue to fund other activities besides policing. Regulation will restrict the types of services that licensing authorities can fund with the levy revenue to ensure that the levy is spent on tackling alcohol-related crime and disorder.
- 6.7 A proposed caveat is that licensing authorities will be able to fund services (in relation to the supply of alcohol late at night) connected to the management of the night-time economy in addition to services that prevent and tackle alcohol-related crime and disorder. This will enable licensing authorities to fund such things as street cleaning or taxi marshals etc with the levy revenue.

## 7. Income Levels

- 7.1 Work is ongoing to try to determine what level of income could be expected across the shared service, both with and without discretionary exemptions. It is expected that this exercise will be completed early in the New Year and will be presented to members with a further report, explaining the full implications of adoption, for the Authority and licence holders.

# DRAFT DOCUMENT

Appendices:

Appendix A – Equalities Impact Assessment

## Consultees

---

**Local Stakeholders:** Members of the public. Holders of licences which allow the sale of alcohol between the hours of midnight and 6am.

**Officers Consulted:** Paul Anstey Joint Service Delivery Manager

**Trade Union:** None

## APPENDIX A

### Equality Impact Assessment – Stage One

<b>Name of item being assessed:</b>	Police Reform & Social Responsibility Act 2011
<b>Version and release date of item (if applicable):</b>	Version 1
<b>Owner of item being assessed:</b>	Steve Broughton
<b>Name of assessor:</b>	Brian Leahy
<b>Date of assessment:</b>	16 <sup>th</sup> November 2012

<b>1. What are the main aims of the item?</b>
To inform Members of new legislation.

<b>2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.</b> (Please demonstrate consideration of all strands – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation)		
<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this.</b>
Members of the Public engaging in the late night (alcohol) economy	A provision within the Act (Early morning Restriction Orders) could result in areas of the district closing earlier than at present, for the purposes of selling alcohol.	EMRO provision in the Police Reform & Social Responsibility Act 2011.
Premises selling alcohol in town and large village centres.	The Council may choose, where deemed necessary, to control late night/early morning crime and disorder, by causing alcohol premises to terminate their activities earlier than at present.	EMRO provision in the Police Reform & Social Responsibility Act 2011

## DRAFT DOCUMENT

Certain premises selling alcohol in the District currently open after midnight.	The Council will be able to charge a Late Night Levy against premises selling alcohol beyond midnight. The levy could impose an additional financial burden on these businesses.	Adoptive provisions of the Police Reform & Social Responsibility Act 2011. (Late Night Levy)
<b>Further comments relating to the item:</b>		
Certain provisions in the Act are adoptive and this report seeks to inform Members of their options prior to any decision being taken.		

# DRAFT DOCUMENT

<b>3. Result</b> (please tick by clicking on relevant box)	
<input type="checkbox"/>	<b>High Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
X	<b>Medium Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>Low Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>No Relevance</b> - This <b>does not</b> need to undergo a Stage 2 Equality Impact Assessment

**For items requiring a Stage 2** equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

<b>4. Identify next steps as appropriate:</b>	
Stage Two required	Following consultation and prior to a decision being taken by Members
Owner of Stage Two assessment:	Steve Broughton
Timescale for Stage Two assessment:	Final date not yet known but will be before June 2013

**Name:** Brian Leahy

**Date:** 16<sup>th</sup> November 2012