

<b>Title of Report:</b>	<b>Police Reform &amp; Social Responsibility Act 2011</b>
<b>Report to be considered by:</b>	Licensing
<b>Date of Meeting:</b>	20th March 2012
<b>Forward Plan Ref:</b>	N/A

**Purpose of Report:** To update Members on the soon to be introduced, Police Reform & Social Responsibility Act 2011 and national consultation on the Late Night Levy and Early Morning Restriction Order provisions contained in the Act.

**Recommended Action:** To consider this report and authorise Officers to respond to the consultation on behalf of the Council.

**Reason for decision to be taken:** This is an opportunity for the Council to act, if deemed necessary, in conjunction with Thames Valley Police, to add its views to national consultation regarding the late night economy.

**Other options considered:** None

**Key background documentation:** The Police Reform & Social Responsibility Act 2011

<p>The proposals contained in this report will help to achieve the following Council Plan Priority:</p> <p><input checked="" type="checkbox"/> <b>CPP3 – Reduce crime and the fear of crime</b></p> <p>The proposals will also help achieve the following Council Plan Theme(s):</p> <p><input checked="" type="checkbox"/> <b>CPT2 - Thriving Town Centres</b></p> <p><input checked="" type="checkbox"/> <b>CPT7 - Safer and Stronger Communities</b></p> <p><input checked="" type="checkbox"/> <b>CPT11 - Protecting Vulnerable People</b></p> <p><input checked="" type="checkbox"/> <b>CPT15 - Putting Customers First</b></p> <p>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.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<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>	8 March 2011

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

## **Implications**

---

<b>Policy:</b>	One of the provisions of the Act is adoptive and policy will only be set if the appropriate section/s of the Act is/are adopted by the Council.
<b>Financial:</b>	If the Late Night Levy is adopted, licensing income will increase, however it is envisaged that 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.
<b>Personnel:</b>	The ability to retain up to 30% net income from the levy may result in the possibility of further personnel being required to further control the late night economy.
<b>Legal/Procurement:</b>	Adoption of the appropriate section of the Act will be required.
<b>Property:</b>	None
<b>Risk Management:</b>	
<b>Equalities Impact Assessment:</b>	Completed
<b>Corporate Board's Recommendation:</b>	N/A

# 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 is intended to, in part, amend 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 later in the year prior to the introduction of Chapter 2 of the Act, 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.
- 2.2 In order for the Government to determine the strength of opinion from interested parties, prior to making the legislation active, they have opened consultation on 2 aspects of the new Act. These are the introduction of the Late Night Levy and the Early Morning Alcohol Restriction Orders (EMRO's)

## 3. Conclusion

- 3.1 It will become evident from the report that Thames Valley Police have a major part to play in the decision to adopt Chapter 2 and in the delivery of the ethos of the adopted provisions by the Council, of the Late Night Levy.
- 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 prior to going to full Council later in the year.

# Executive Report

---

## 1. Introduction

- 1.1 This report is in 2 parts. Part 1 gives an overview of the changes to alcohol licensing under Chapter 2 of the Police Reform & Social Responsibility Act 2011 (PR&SRA 2011) and Part 2 deals with government consultation regarding the same legislation. The Act is due for implementation during the autumn of 2012.
- 1.2 Chapter 2 is an important piece of legislation which will have an impact on a number of aspects of alcohol licensing which will affect the public, the trade, local authorities and the Police.

## 2. Part 1: Summary of Main Changes to Licensing

- 2.1 Responsible Authorities as Interested Parties
- 2.2 The Licensing Authority (LA) will become a Responsible Authority in relation to Premises and Club Premises applications. This will enable the LA to make representations regarding applications and to apply for a review of a Premises Licence or Club Certificate should it be felt necessary.
- 2.3 Presently, the LA has no power to initiate a review nor is it able to comment on applications other than to accept and administrate those applications which are properly made.
- 2.4 Primary Care trusts are to become Responsible Authorities.
- 2.5 "any other person" has replaced "interested parties".
- 2.6 The Secretary of State will be required to make regulation changing the way in which the statutory advertising of applications for licences or reviews are made, probably by the LA bringing the application to the attention of persons who may be affected by any licence issued. It is envisaged that the form of public advertising may be similar to that of planning application notifications however Regulation will determine any changes.
- 2.7 "Necessary" has replaced "appropriate" in relation to the steps the authority may take when determining applications and reviews.
- 2.8 Temporary Event Notices (TEN's)
- 2.9 Both the Police and Environmental Health Officers will be able to object to a TEN if they consider that the activities notified are likely to undermine a licensing objective.
- 2.10 Conditions may be applied to a TEN if the LA considers it appropriate for the promotion of the licensing objectives, providing that the conditions are also imposed on a premises licence or club premises certificate, if in place for the premises, or part premises for which the TEN has been served, and the condition/s would not be inconsistent with the carrying out of the licensable activities under the TEN.
- 2.11 A "late" TEN may be submitted up to 5 days prior to the proposed event.

- 2.12 Where a TEN is served electronically, the LA will be required to forward the notice to the Police and EHO no later than the end of the first working day after the day on which the notice was given to the Authority.
- 2.13 There is to be a relaxation of the time limits for the duration of a TEN. This has been extended from the current 96 hours to a maximum of 168 hours.
- 2.14 The fine for persistently selling alcohol to children is to be raised from £10.000 to £20.000.
- 2.15 Where a closure notice for persistently selling alcohol to children has effect, the duration of the closure will be raised from 96 hours to a maximum of 336 hours.
- 2.16 Early Morning Alcohol Restriction Orders (EMRO's)
- 2.17 An EMRO is a power introduced by the previous government that was not commenced. An EMRO would have enabled LA's to restrict the sale of alcohol in the whole or part of their areas between 3am and 6am on some or all days. The PR&SRA 2011 amends this and will allow EMRO's to be applied more flexibly to problem areas between midnight and 6am.
- 2.18 The Late Night Levy
- 2.19 The Late Night Levy will allow LA's that choose to adopt it, to charge for late night licences to pay for the cost of extra policing. At least 70% of the net revenue taken through the levy will go directly to the police, with the remainder being retained by the Licensing Authority. The LA must determine, following consultation, on the process that areas would need to follow when adopting these new measures, as well as the type of services LA's may fund from their portion of the levy and whether to allow exemptions for New Years Eve. Local areas will also decide which of the available categories of exemptions and reductions will apply.
- 2.20 Alcohol Disorder Zones
- 2.21 This provision will be repealed.
- 2.22 Licence Fees
- 2.23 Where an annual licence fee is not paid, the LA will have the power to suspend the licence until such time as the payment has been made. However, exceptions are built into the Act for administrative error, disputes and a "grace period".
- 2.24 Subject to Ministerial approval, the LA will have the power to set certain fees on a cost recovery basis. The costs may also include the cost of acting as other Responsible authorities under the Act e.g. a planning authority.
- 2.25 Licensing Policy Statements
- 2.26 These will now be reviewable every 5 years rather than every 3.
- 2.27 Much of the detail of the above provisions will be subject to Government Regulation and Guidance, which will be published prior to the Act being brought into force.

### **3. Part 2: Consultation**

- 3.1 The Home Office has introduced a consultation exercise which will be open until the **5th April 2012**, where the public, licensing authorities, the licensed trade and police are all encouraged to contribute their views.
- 3.2 The consultation is described as "have your say on late night drinking venues" and has been entitled "dealing with the problems of late night drinking". It looks at the implementation of 2 new powers (Late Night Levy and EMRO's).
- 3.3 The consultation looks to seek to identify the types of premises, for example hotels, cinemas and community venues, which could be exempted or eligible for a reduction in levy charges, if they are viewed as having a minimal effect on alcohol related crime and disorder.
- 3.4 Lord Henley the Minister for Crime Prevention and Antisocial Behaviour Reduction says "Alcohol related crime and disorder is a problem for many of our communities. These new measures give power back to local areas so they can respond to their individual needs. But we also recognise that some types of premises that open late to serve alcohol do not contribute to late night drinking problems and should not be unduly penalised. That is why we are seeking views on whether they should be exempt or see a reduction in fees".
- 3.5 Before any consultation response is made it is advisable that the Council is aware of the position of Thames Valley Police and their views in the need for further enforcement by, either the provision of additional policing of the late night economy or other necessary means and the means by which an agreement can be made with the Council to satisfy the requirements of the levy.
- 3.6 An initial approach has already been made to the Area Commander for West Berkshire Policing.

### **4. Early Morning Restriction Areas**

- 4.1 The Government believe that EMRO's will help LA's to address specific problems caused by the late night sale of alcohol in their areas.
- 4.2 LA's 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. However, the Government believe that some types of premises should not be subject to an EMRO. These premises could be; Premises with overnight accommodation, theatres and cinemas, community premises and casinos and bingo halls with a membership scheme. The rationale for these proposed exemptions is that most do not contribute to alcohol related crime and disorder. As such the 2011 Act enables the Secretary of State to make regulations which prescribe exemptions to an EMRO by reference to the above types of premise.
- 4.3 There is a proposal that an EMRO will not apply between midnight on 31st December and 06:00 hrs on the 1st January of each year.

## **5. . The Late Night Levy**

- 5.1 The Levy will allow LA's to raise a contribution from late night opening alcohol retailers towards the cost generated by the late night economy. The levy will apply to all premises (on and off trade), throughout the LA's area, which are authorised to sell or supply alcohol in the time period set by the LA. This can be any time between midnight and 06:00 hrs. The levy will not apply to TEN's
- 5.2 The Secretary of State will prescribe details of the process for adopting the levy and provision has been made, in the Act, for draft regulation before the levy scheme is commenced.
- 5.3 Prior to making a decision to implement the levy, it is intended the LA will have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce the levy in its area. If so, the LA must formally consult the PCC, the police, licence holders and others about its decision to introduce the levy. The consultation should ask whether it needs to apply any exemptions or discounts to the levy and how it will apportion net levy revenue between the police and licensing authority. The LA will have the final decision in all of these areas.
- 5.4 If the LA decides to adopt the levy it may consider that certain types of premise should not contribute to the levy or should contribute at a lesser rate of levy. To allow local discretion, the levy will allow authorities to select exemptions or reductions that they consider should apply to their area.
- 5.5 The Government are proposing that the following types of businesses could be considered as exemptions or contribution at a reduced rate; premises with overnight accommodation, restaurants, theatres and cinemas, casinos/bingo halls, community amateur sports clubs, community premises, country pubs where the rural settlements has a population of less than 3000 residents, as appear in the qualifications for rural relief.
- 5.6 There is a proposal that the LA are able to grant an exemption to those paying a levy as part of a Business Improvement District (BID) where the authority is satisfied that the aims meet a satisfactory crime and disorder focus.
- 5.7 Where the levy is adopted, the LA can retain up to 30% of the net levy revenue to fund other activities besides policing. Where and how this money could be spent is included in the consultation.

## **6. Recommendation**

To consider the report and to authorise officers to reply to Government Consultation on behalf of the Council, having first considered Members views.

### **Appendices:**

Appendix A – Equalities Impact Assessment

Appendix B – Dealing with the Problems of Late Night Drinking (Hard Copy only)

## **Consultees**

---

**Local Stakeholders:** Members of the public and pub, club etc, licence holders.

**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>	6 <sup>th</sup> February 2012

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

<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 believed to be early autumn 2012.

**Name:** Brian Leahy

**Date:** 6<sup>th</sup> February 2012