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Title of Report:	Police Reform & Social Responsibility Act 2011
Report to be considered by:	Licensing Committee
Date of Meeting:	5 th December 2012
Forward Plan Ref:	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**

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- 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 th 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.

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Is this item subject to call-in?	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 <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p> <p>Report is to note only <input type="checkbox"/></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 20th 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 10th 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

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- 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.

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- 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.

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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

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

1. What are the main aims of the item?
To inform Members of new legislation.

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. (Please demonstrate consideration of all strands – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation)		
Group Affected	What might be the effect?	Information to support this.
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

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<p>Certain premises selling alcohol in the District currently open after midnight.</p>	<p>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.</p>	<p>Adoptive provisions of the Police Reform & Social Responsibility Act 2011. (Late Night Levy)</p>
<p>Further comments relating to the item:</p>		
<p>Certain provisions in the Act are adoptive and this report seeks to inform Members of their options prior to any decision being taken.</p>		

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

4. Identify next steps as appropriate:	
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: 16th November 2012