

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

LICENSING COMMITTEE – 26 MARCH 2012

LICENSING ACT 2003 - DEALING WITH THE PROBLEMS OF LATE NIGHT DRINKING.

A CONSULTATION ON SECONDARY LEGISLATION FOR THE LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS

1.0 PURPOSE OF THE REPORT

- 1.1 To advise the Committee of a consultation document issued by the Home Office with regard to the proposed secondary legislation on the subject of a Late Night Levy and Early Morning Restriction Orders under the Licensing Act 2003.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is requested to consider the proposed responses to the above-mentioned consultation document set out in Appendix 2.

3.0 INTRODUCTION/BACKGROUND

- 3.1 On 17 January 2012 the Home Office published a consultation document outlining their proposals as to how a late night levy or an early morning restriction order (“EMRO”) may be implemented. These are measures intended to deal with late night drinking which have been introduced into the Licensing Act 2003 through the Police Reform and Social Responsibility Act 2011. A copy of this document is attached to the report at Appendix 1.

4.0 CURRENT POSITION

- 4.1 The Home Office have set a closing date for the submission of comments in respect of this document of 10 April 2012.
- 4.2 Licensing Officers have prepared draft answers to the questions outlined in the consultation document and a copy of these questions along with the proposed responses are attached to the report at Appendix 2.
- 4.3 The Committee is requested to consider these proposed responses.

5.0 REASONS FOR THE DECISION

- 5.1 To inform legislators.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS

7.1 None.

8.0 GLOSSARY

8.1 None.

9.0 APPENDICIES

9.1 Appendix 1 - Home Office consultation document on Secondary Legislation for the Late Night Levy and Early Morning Restriction Orders.

9.2 Appendix 2 – Draft responses to questions asked in the Home Office Consultation Document.

10.0 BACKGROUND PAPERS

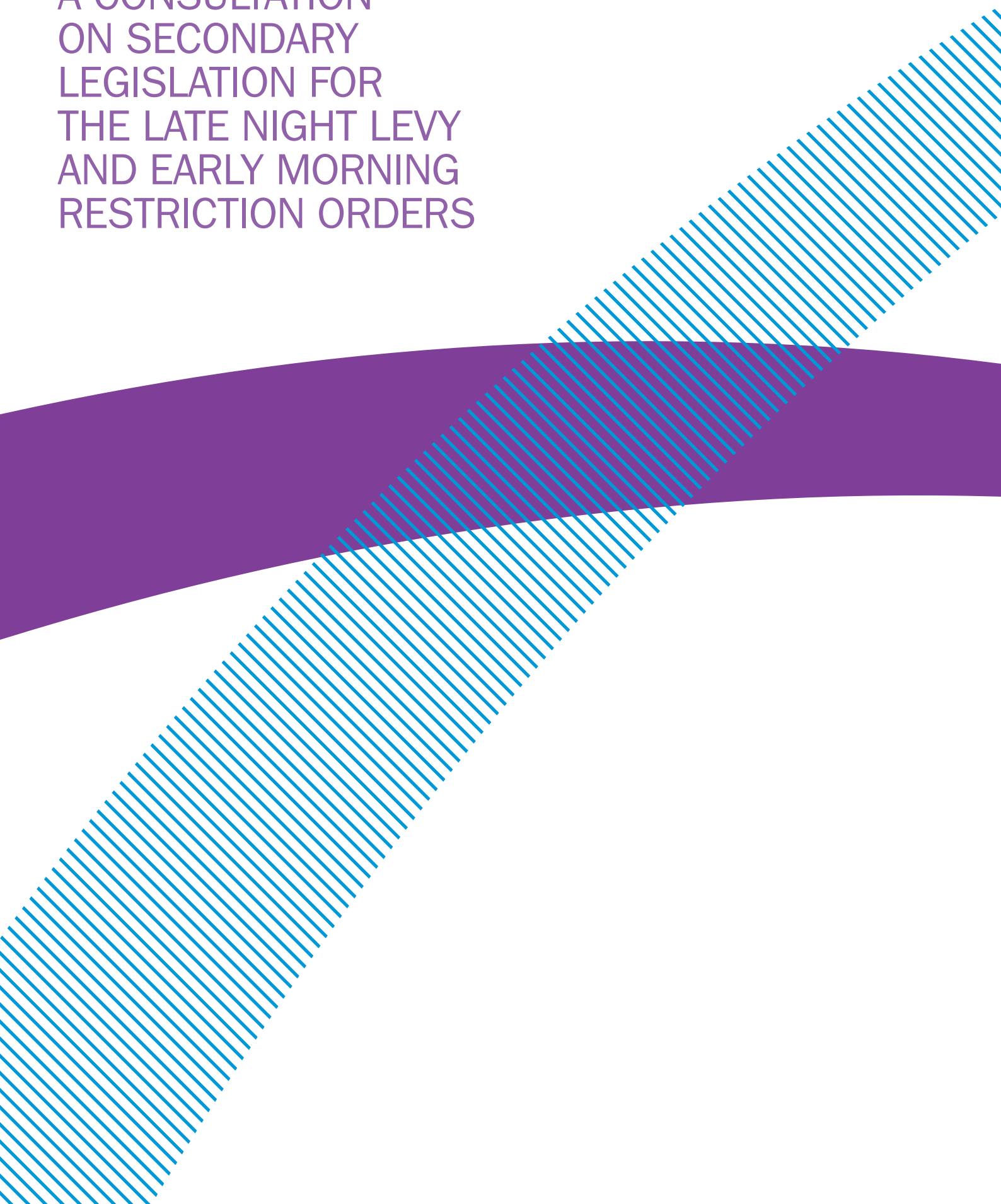
10.1 None.

Appendix 1

**DEALING WITH THE
PROBLEMS OF LATE
NIGHT DRINKING**
A CONSULTATION
ON SECONDARY
LEGISLATION FOR
THE LATE NIGHT LEVY
AND EARLY MORNING
RESTRICTION ORDERS



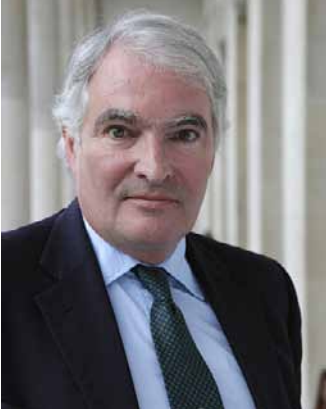
Home Office



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MINISTERIAL FOREWARD



I believe that problems in the night-time economy should be addressed locally. The Government is committed to ensuring that the police and local authorities are given the right tools to address the alcohol-related problems in their area, whilst promoting a vibrant night-time economy to benefit business and the community that they serve. The late night levy and the extension of Early Morning Restriction Orders (“EMROs”) will enable local authorities to achieve this. If local communities are concerned about premises that are open into the early hours of the morning and causing problems, then they should be able to respond flexibly. The majority (64%) of all violence occurs in the evening or at night and one-fifth of all violent incidents take place in or around a pub or club. By extending EMROs so that they can be applied from midnight, local authorities will have an additional tool to address problem areas in the night time economy.

Where there is a vibrant late night economy, with premises remaining open into the early hours, then the local authority should have the flexibility to charge for a contribution towards any additional policing that this generates. Tax payers should not simply be left to pick up this cost. People who enjoy a night out often visit a variety of premises and it is appropriate that the costs are shared between these businesses.

This consultation seeks views on the details of the regulations that will implement these policies. In particular, it asks for views on what categories of premises should enjoy exemptions and reductions under both measures. For example, I do not wish to unfairly penalise premises which are not part of the wider late night economy. These include, for example, hotels and B&Bs which serve only to guests, and the consultation therefore proposes these as one of the categories of exemption from both measures.

I would very much welcome views on these and other proposals on how the late night levy and EMROs will be implemented. Overall, our intention is that both measures will empower local communities to act to achieve a more viable night time economy.

A handwritten signature in black ink, appearing to read 'Henley'.

Lord Henley

Minister of State for Crime Prevention and Antisocial Behaviour Reduction

1. INTRODUCTION

- 1.01 This consultation is about 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”).
- 1.02 Alcohol-related crime and disorder is a serious problem for many of our communities. The promised “café-culture” from later drinking hours has not materialised. In 2010/11, almost one million violent crimes were alcohol-related and almost half of surveyed violent crime victims believed the offender to be under the influence of alcohol. The police are fighting an expensive battle against alcohol-related crime and disorder. The Coalition Programme for Government recognised these problems and contained a set of commitments to tackle alcohol misuse, especially late at night. The necessary changes to primary legislation have been made through the 2011 Act.
- 1.03 EMROs will help licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. An EMRO is a power introduced by the previous Government (which has not yet been commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days. The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities 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, we believe that some types of premises should not be subject to an EMRO. Section 4 of this consultation considers exemptions to the EMRO power that will apply to all EMROs.
- 1.04 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 to adopt for their areas. The licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night. Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy.
- 1.05 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. Section 6 of this consultation considers the available categories of premises to which exemptions and reductions will apply. The government is also keen to promote local and business-led initiatives. Many businesses successfully work together in schemes like Best Bar None, Business Improvement Districts (BIDs) and Community Alcohol Partnerships. Authorities and business communities might wish to consider these schemes as possible alternatives or complements to EMROs or the levy. Section 6 also considers this issue.
- 1.06 To inform this consultation, working groups and meetings were held with representatives from the police, the licensed trade, best-practice schemes, licensing authorities and the hospitality industry.
- 1.07 A consultation-stage Impact Assessment is attached to this consultation. This will be updated following the consultation if necessary.

2. ABOUT THIS CONSULTATION

Scope of the consultation

Topic of this consultation:	<p>This consultation seeks views on certain aspects of EMROs and the late night levy.</p> <p>EMROs</p> <ul style="list-style-type: none">• Process of adopting an EMRO.• Categories of business which will be exempt from any EMRO. <p>Late night levy</p> <ul style="list-style-type: none">• Process of adopting the levy.• Categories of business which individual licensing authorities may choose to exempt from, or afford a reduction in relation to, the late night levy.• The kinds of services a licensing authority may fund with the 30% of net levy receipts it may retain from the net levy revenue.
Scope of this consultation:	<p>Regulations will be made under powers in the 2011 Act and Licensing Act 2003 in relation to the late night levy and EMROs. The Government intends to commence both powers, but would like to hear views on the above and on the impact assessment before preparing the regulations.</p>
Geographical scope:	<p>England and Wales</p>
Impact assessment (IA):	<p>A consultation stage IA is included with the consultation document. A small firm impact test is included</p>

Basic Information

<p>To:</p>	<p>We are keen to hear from everyone who will be affected by the two measures, including; members of the public to whom alcohol is supplied; those affected by alcohol-related crime; those that own or work in pubs, clubs, supermarkets and shops; best practice scheme representatives; criminal justice agencies; licensing authorities; and trade associations representing those who sell alcohol.</p>
<p>Duration:</p>	<p>The consultation runs for 12 weeks from 17th January to 10th April.</p>
<p>Enquiries:</p>	<p>Alcohol.Consultation@homeoffice.gsi.gov.uk</p>
<p>How to respond:</p>	<p>Information on how to respond to this consultation can be found on the Home Office Website at http://www.homeoffice.gov.uk/about-us/consultations. Responses can be submitted online through the Home Office website or by post by sending responses to:</p> <p>Home Office Drugs and Alcohol Unit 4th Floor Fry Building 2 Marsham Street London, SW1P 4DF</p>
<p>Additional ways to become involved:</p>	<p>Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to offer, and provide on request, these formats under the Equality Act 2010.</p>
<p>After the consultation:</p>	<p>Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.</p>

Background

Getting to this stage:	The two powers were consulted on as part of the ‘Rebalancing the Licensing Act’ consultation (Summer 2010) and introduced in the Police Reform and Social Responsibility Act (September 2011).
Previous engagement:	The government has already consulted a number of key partners prior to publishing this consultation. As well as engagement as part of the ‘Rebalancing the Licensing Act’ consultation, officials have held pre-consultation working groups with stakeholders from the on and off trade; police and local authorities; best practice schemes and the voluntary sector.

PART 1 EARLY MORNING RESTRICTION ORDERS

3. PROCESS

3.01 The 2011 Act allows an EMRO to be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities can apply these orders to areas where they consider that restricting the late night supply of alcohol is appropriate to promote the licensing objectives. Before this power is commenced, regulations must be made.

3.02 The regulations will prescribe details of the process for making an EMRO and the kinds of premises that will be exempt from an EMRO. Consultation respondents are asked to consider the proposed process map in Annex A.

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

Yes

No

Don't know

If no, please explain what else is needed

4. EXEMPTIONS TO EMROS

4.01 EMROs are designed to address recurring problems with alcohol-related crime and disorder in specific areas. The licensing authority will be able to decide during which hours the EMRO will apply, whether it is applied every day or on particular days; whether it will run for a limited or unlimited period; and whether it will apply to whole or part of the licensing authority's area. In each case, the decision will be based on what is appropriate for the promotion of the licensing objectives¹. There are some types of premises

¹ Licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

which should not be subject to an EMRO, wherever it is applied. Some businesses, wherever they may be located, do not contribute to alcohol-related crime and disorder. For example, a hotel may only serve alcohol to its guests who are staying overnight. As such, the 2011 Act enables the Secretary of State to make regulations which prescribe exemptions to an EMRO by reference to particular kinds of premises or particular days.

4.02 Many licences have additional authorisations on New Year's Eve to stay open later than usual. The government proposes that EMROs will not apply between midnight on 31st December and 6am on 1st January of each year.

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

Yes – the EMRO should apply on New Year's Eve

No – the EMRO should not apply on New Year's Eve

Neither agree nor disagree

Don't know

Please give reasons for your answer

4.03 Local discretion in setting the EMRO area is paramount, and the intention is to have only a few nationally prescribed exemptions. Some premises may need to vary their licence (to, for example, add a condition via the minor variations process) before an exemption is applicable to them.

4.04 EMROs will operate to restrict alcohol sales even when a Temporary Event Notice (TEN) is otherwise in effect. Section 172 of the Licensing Act 2003 enables the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. Primary legislation includes

provision that, unless the licensing hours order provides otherwise, the EMRO will not be effective to prevent alcohol sales in a period to which the extended hours order applies.

relevant period will be members or their guests; or those who stay overnight; or those who attend for a performance. We also propose that there is an exemption for community premises which have demonstrated that they do not need a Designated Premises Supervisor (DPS). We propose that the following exemptions will apply to every EMRO:

4.05 The proposed exemptions cover some types of premises where the only customers during the

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Community premises	Those premises that have successfully applied to remove the mandatory DPS requirement.
Casinos and bingo halls with a membership scheme	Premises licensed to provide these facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

- Agree – these categories of premises should be exempt from EMROs
- Disagree – these categories of premises should not be exempt from EMROs
- Neither agree nor disagree
- Don't know

Please give reasons for your answer, specifying any exemptions that you disagree with

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

- Yes
- No
- Don't know

If yes, please specify which other types of premises and give reasons.

PART 2 THE LATE NIGHT LEVY

5. PROCESS

- 5.01 The levy will allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off-trade), throughout the licensing authority's area, which are authorised to sell or supply alcohol in the time period set by the licensing authority. This can be any time between midnight and 6am. Section 172 of the Licensing Act 2003 permits the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. The Government intends to ensure that this will not result in some premises inadvertently becoming liable to pay the late night levy. The levy will not apply to TENs. The 2011 Act makes provision for the Government to prepare draft regulations before the levy scheme is commenced.
- 5.02 Regulations will prescribe details of the process for adopting the late night levy. Consultation respondents are asked to consider the proposed process maps in Annex B.
- 5.03 Prior to making a decision to implement the levy, it is intended that the licensing authority 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 licensing authority 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 licensing authority will have the final decision in all of these areas.

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

- Yes
- No
- Don't know

If yes, do you have any suggestions on how this process should operate?

6. EXEMPTIONS AND REDUCTIONS TO THE LEVY

- 6.01 There are some types of premises which licensing authorities may consider should not make a contribution towards late night police costs through the late night levy. To enable local discretion, the levy will allow licensing authorities to select exemptions or reductions that they consider should apply in their area. It is proposed that the following types of business are available as exemptions for licensing authorities to adopt:

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Restaurants	<p>Premises that have condition(s) on their licence that have the effect of making clear their status as restaurants run on a permanent, more formal basis. These could, for example, include conditions which require that, between midnight and 6am:</p> <ul style="list-style-type: none"> (i) customers are shown to their table; (ii) food is provided in the form of substantial table meals that are served and consumed at the table; (iii) premises primarily serve meals to those eating on them, and (iv) alcohol is not be supplied to, or consumed on the premises by, any person other than those who are taking substantial table meals and where the consumption of alcohol by such persons is ancillary to taking such meals.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Casinos Bingo Halls	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
Community Amateur Sports Clubs (CASCs)	Those premises that have a relief from business rates by virtue of being a CASC (definition found in Schedule 18 of the Finance Act 2002.)
Community premises	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

Agree
Disagree

Please give reasons for your answer, specifying any exemptions that you disagree with

Business Improvement Districts

6.02 Business Improvement Districts (BIDs, established under the Local Government Act 2003) are a defined area within which businesses pay a fee in order to fund improvements within their boundaries and can prove valuable to business communities. An increasing number of late night or licensed trade BIDs are being established. Some of these schemes may fulfil the purpose of the levy, by raising contributions towards late night services, without the need for local authority intervention. These schemes should be actively encouraged. It is proposed that licensing authorities are able to grant an exemption to those paying a levy as part of a BID where the authority is satisfied that the aims meet a satisfactory crime and disorder focus.

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

Agree – licensing authorities should be able to exempt Business Improvements Districts
Disagree – licensing authorities should not be able to exempt Business Improvement Districts
Neither agree nor disagree
Don't know

Members' clubs

6.03 Many private members' clubs operate under 'Club Premises Certificates' (CPCs). Alcohol cannot generally be supplied under a CPC for profit or to the general public. Some licensing authorities may consider that private member's clubs in their area should not make a contribution to late night enforcement costs. Should clubs be exempt from the late night levy, the police revenue in the average licensing authority area from the levy will be reduced by approximately 10%.

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

Yes
No
Don't know

Please give reasons for your answer

Small Business Rate Relief

6.04 Small Business Rate Relief offers business ratepayers that meet certain criteria the opportunity to receive reductions on their rates bills. The criteria vary slightly in England and Wales but, in general, businesses are typically eligible if they occupy only one property and their rateable value is below a certain level. This may apply, for example, to small local pubs.

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

Please give reasons for your answer

New Year's Eve

- 6.05 Some premises may have a one-off late night authorisation on their licence to celebrate the New Year. On the one hand, it could be argued that the ability to host one-off special occasions will not be hindered by the late night levy. Before the levy begins in any area, premises will be able to make a free minor variation to their licence to reduce their hours. On special occasions, they may use a TEN to authorise the sale of alcohol.
- 6.06 On the other hand, an exemption for those premises whose only late night authorisation is for New Year will benefit many premises.

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

- Agree – there should be an exemption for New Year's Eve
- Disagree - there should not be an exemption for New Year's Eve
- Neither agree nor disagree
- Don't know

Reductions for best practice schemes

- 6.07 Licensing authorities may also 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 together to address some of the negative effects of selling alcohol. The following schemes are recommended as available reduction categories:

Members of a locally accredited Best Bar None scheme
Members of a locally accredited Pubwatch, Clubwatch or Shopwatch scheme. The discount can only apply to one of the above three schemes. Criteria to be an applicable pubwatch scheme: <ul style="list-style-type: none">• The local authority is satisfied that the scheme has clear aims and objectives which are subject to a formal statement of intent or a constitution and that it has demonstrated that its members are actively working to reduce crime and disorder.• Membership is open to all licensed premises within the geographic area.• The scheme has a Chair person and/or Coordinator who is responsible for maintaining verifiable records of membership.
Those premises which pay an annual individual contribution to a Community Alcohol Partnership in their area. This definition does not include subsidiaries of companies that pay a contribution on a national level.
Premises that pay a levy in a Business Improvement District (established under the Local Government Act 2003) where the authority is satisfied that the aims meet a satisfactory crime and disorder focus

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Other local best-practice schemes

6.08 The best practice schemes referred to in Question 11 are locally accredited schemes that are part of a national network. It has been suggested that some schemes have been created locally without any national accreditation. Groups of businesses may join together and fund late night services or address specific community problems. Regulations could grant licensing authorities the power to give discounts to schemes that they recognise as effective. Schemes would have to meet readily recognised and measurable benchmarks in order to be capable of qualifying for a discount.

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

6.09 We propose that there is a 10% discount to the levy for every relevant best practice scheme (up to a maximum of 30%). This is in recognition that many businesses are members of multiple schemes.

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

6.10 There may be other types of premises that should not be required to contribute fully towards the levy, for example, community-run pubs or others with an established community and social character.

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

- Yes
- No

If yes, please state what you think these should be and how this type of premises should be defined.

7. LICENSING AUTHORITY LEVY REVENUE

7.01 There are many different types of local authority-funded services which make the late night economy a more welcoming place to do business. Some examples include taxi marshals, late night town wardens and street cleaning services. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. This section considers whether there should be any restrictions on how authorities spend this money.

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

Restrictions on funded activities

7.02 It is intended that the proportion of net levy revenue retained by licensing authorities (a

maximum of 30%) is used to fund services which tackle alcohol-related crime and disorder, such as taxi marshalling and ‘booze buses’ that provide assistance to those who otherwise might become victims or offenders. This would not extend to the wider management of the night time economy. For example, it would include the clean-up of the after-effects of alcohol-related crime and disorder, such as broken glass and public urination, but not general clean-up activities, such as the collection of waste from outside fast food restaurants

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

Please state whether you think the types of services should be limited to preventing and tackling alcohol related crime and disorder; or should extend to both preventing and tackling alcohol related crime and disorder and management of night time economy?

8. IMPACT ASSESSMENT

8.01 An Impact Assessment for late night levy secondary legislation is attached. Consultation respondents are encouraged to comment on this document.

CONSULTATION QUESTION 17:

If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 18:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

9. ABOUT YOU

9.01 Please indicate in what capacity you are responding to this consultation:

Licensing authority
Member of the public
Police officer
Person involved in licensed trade/club premises
Other please specify

Police officers only: Which Police Force are you from?

9.02 Licensed trade only: Please tick one of the following boxes which would best describe you/ your organisation

Individual
Members’ Clubs
Micro company (1 – 9 employees)
Small business (10-49 employees)
Small – medium enterprise (50-249 employees)
Large company (over 250 employees)

Licensing officer only: Which Licensing Authority are you from?

Member of the public/Other only: Which Local Authority or London Borough are you from?

10. CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under

the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

GOVERNMENT CODE OF PRACTICE ON CONSULTATION

The Consultation follows the Government's Code of Practice on Consultation the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office consultation co-ordinator, Adam Mcardle. Please DO NOT send your response to this consultation to Adam Mcardle. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation. The co-ordinator can be emailed at: Adam.Mcardle2@homeoffice.gsi.gov.uk or alternatively you can write to him at:

Adam Mcardle, Consultation Coordinator
Home Office
Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

11. CHECKLIST

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 17:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 18:

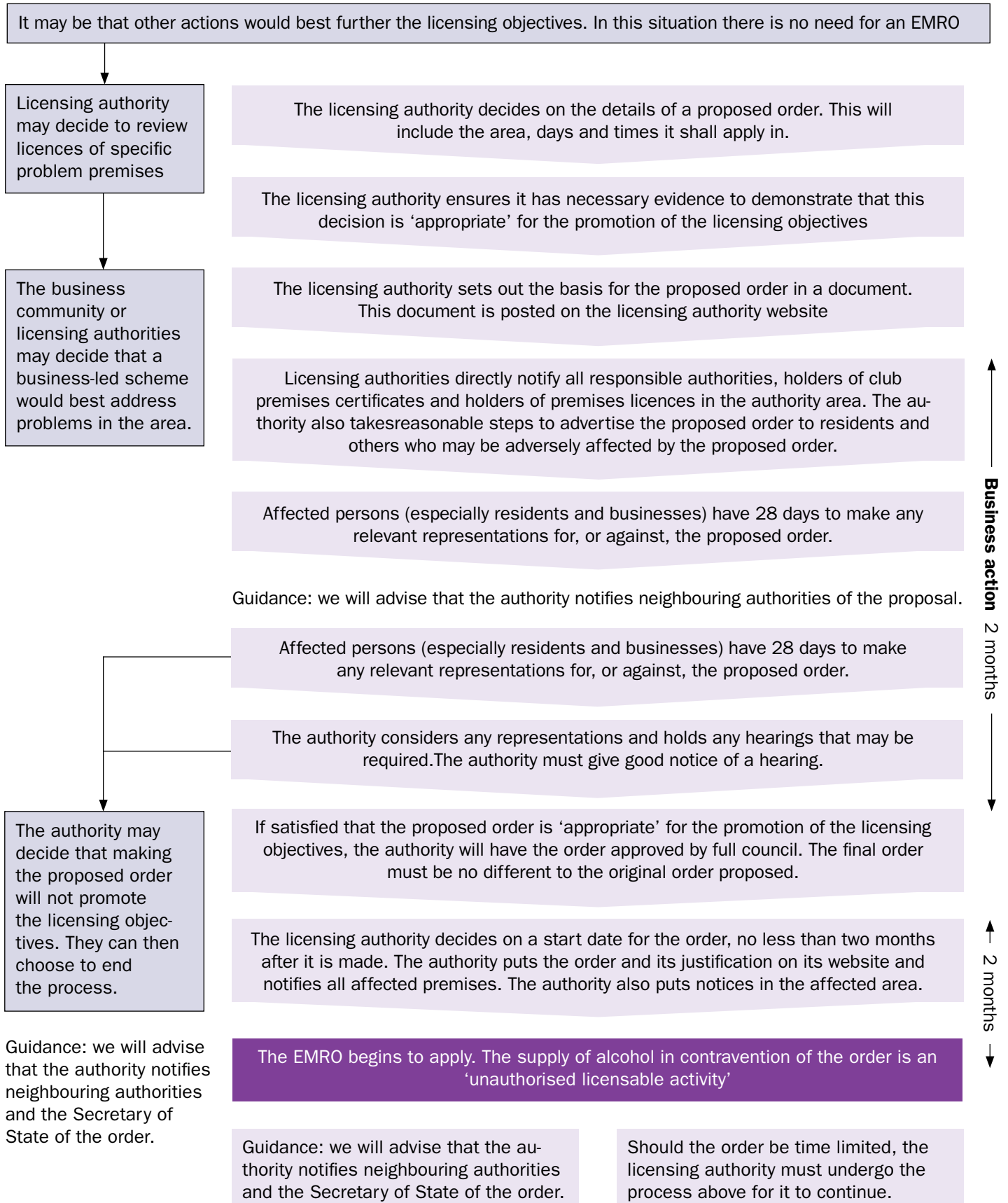
If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 19:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

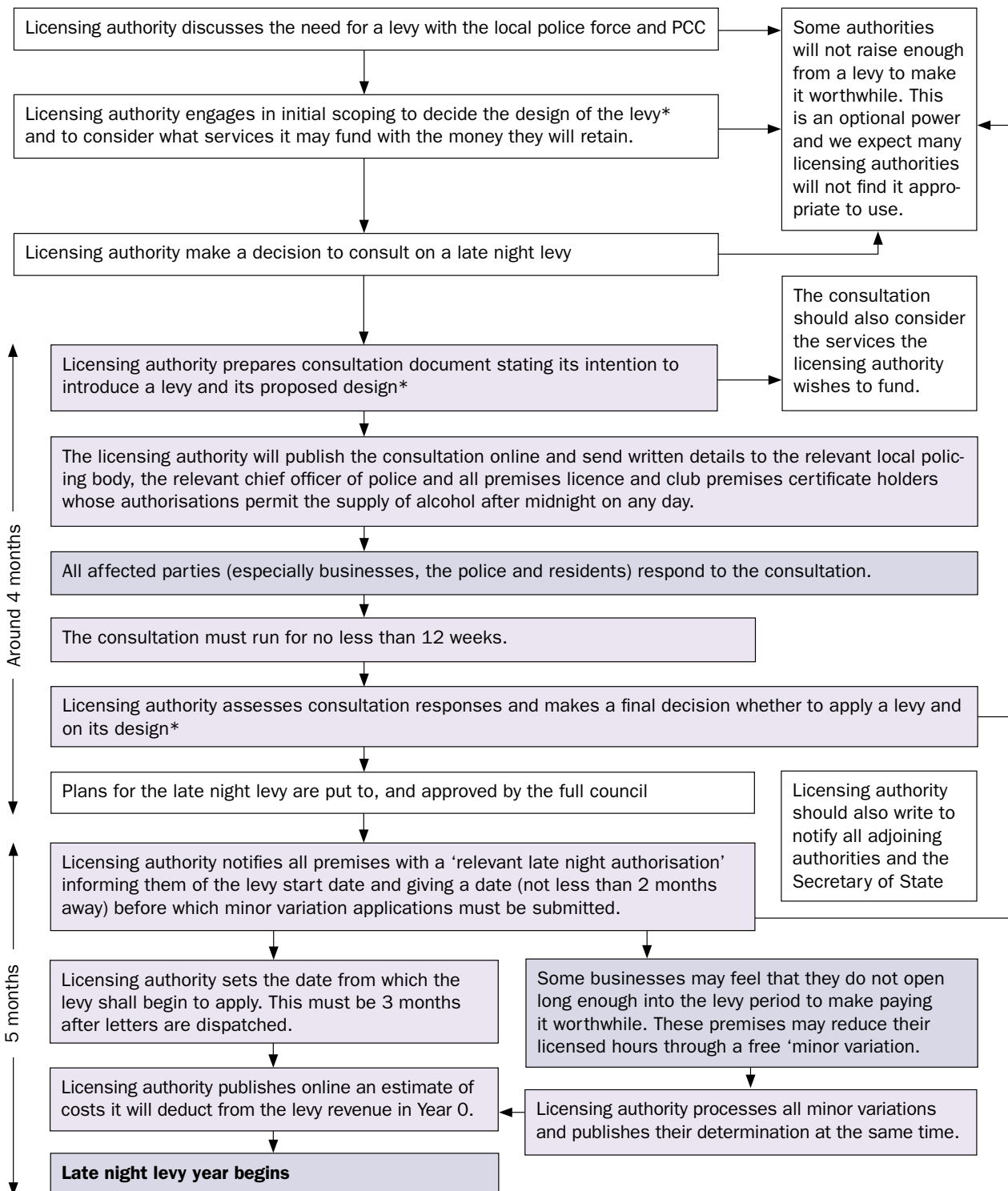
ANNEX A - EMRO PROCESS MAP

A situation arises where there is need to restrict the late night supply of alcohol in a particular area. The licensing authority can decide, possibly at the suggestion of the public or the PCC, to make an EMRO.

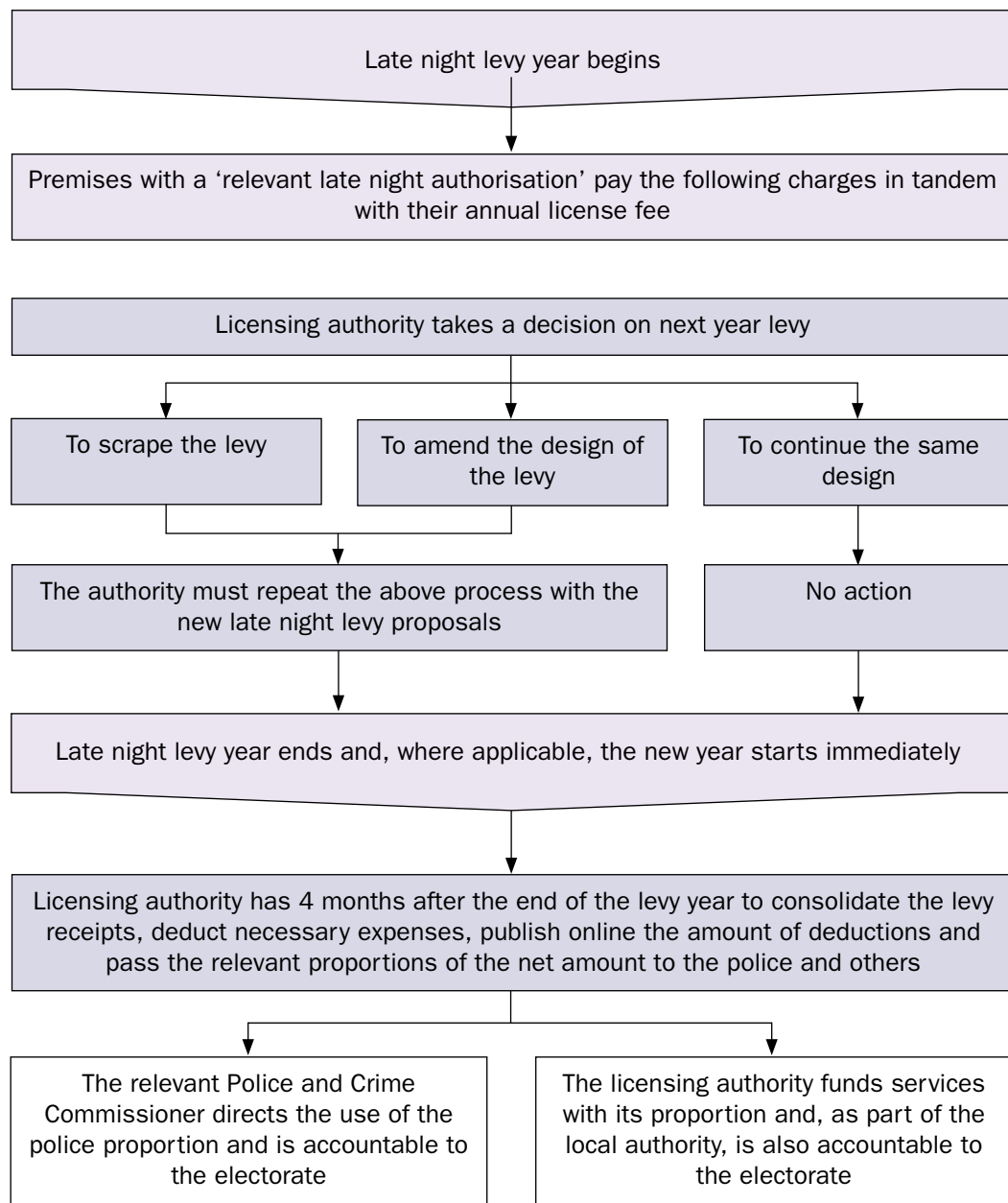


ANNEX B - LATE NIGHT LEVY PROCESS MAPS - (Part I - Introduction)

Essential processes which will be deductible from levy revenue	<p>'late night supply period'- This is the time period where the levy applies. The licensing authority chooses this period but it must be within the window of midnight and 6am.</p> <p>'relevant late night authorisation'- a licence or certificate which permits the supply of alcohol within the 'late night supply period'</p>
Key stages for business	<p>*The levy design - is the licensing authority's choice of the 'late night supply period', any exemptions or reductions that apply and the proportion of the revenue (after administrative costs are deducted) which the licensing authority wishes to keep to fund other activities (max 30%).</p>



ANNEX B - LATE NIGHT LEVY PROCESS MAPS CONTINUED - (Part II - Levy year)





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Appendix 2

Proposed Consultation Responses

Early Morning Restriction Orders

1. **Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?**

Yes.

2. **The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?**

Neither agree nor disagree. We do not have sufficient knowledge of the numbers of operators who usually stay open for business during this period (as opposed to being authorised to open) nor of the problems (if any) that attend such trading to offer an informed comment.

3. **Do you agree or disagree that the following categories of premises (premises with overnight accommodation, theatres and cinemas, community premises and casinos and bingo halls with a membership scheme) should be exempt from EMROs?**

Agree – these categories of premises have not, to our knowledge, given rise to concerns about crime and disorder associated with the provision of alcohol.

4. **Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?**

No.

Late Night Levy

5. **Do you think that there should be an option for local residents/community groups to recommend the implementation of the levy in their area?**

No. Any duty to respond to a recommendation for a levy from local residents with a formal consultation process would utilise resources that would otherwise be allocated for the benefit of the community. The licensing authority and the police are well placed to identify any need for a levy. Both parties would, no doubt, consider any views expressed by local residents in any event.

6. **Do you agree or disagree that licensing authorities should be able to exempt the following premises (premises with overnight accommodation, restaurants, theatres and cinemas, casinos and**

bingo halls, community amateur sports clubs, community premises and country village pubs) from the levy?

Agree. The licensing authority would not wish to impose an unnecessary financial burden upon a category of premises which serves the local community and does not create problems related to the sale of alcohol. The flexibility to exempt certain categories selected from the list given would therefore benefit the public.

- 7. Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?**

Agree. Although we do not presently operate a Business Improvement Districts the flexibility to exempt such an area, should one be created, may be useful.

- 8. Do you think that premises operating under a club premises certificate should be exempt from the late night levy?**

Yes. Premises operating under a club premises certificate do not typically, to the best of our knowledge, create problems late at night.

- 9. What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?**

Given that small premises in suburban areas can create considerable nuisance for their neighbours we do not consider that an exemption is appropriate for this category of businesses.

- 10. Do you agree or disagree that there should be an exemption for New Year's Eve?**

Agree. Premises opening after midnight only on New Year's Eve are unlikely, in our view, to create the type of problems that the levy is intended to address.

- 11. Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from businesses involved with the following best practice schemes: Best Bar None, Pubwatch, Clubwatch or Shopwatch, Community Alcohol Partnerships or Business Improvement Districts)?**

Agree. A reduction in the levy could be a useful incentive to offer potential members of such schemes.

- 12. Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?**

No. Any benchmarks would need to be objective and it is difficult to conceive of any beyond the well-established Best Bar None scheme.

13. Do you agree or disagree with this set-up of cumulative discounts?

Agree. A flexible levy regime will allow licensing authorities to best respond to individual local circumstances.

14. Should there be scope for further exemptions and reductions from the late night levy?

No.

15. What activities do you think licensing authorities should be able to fund with their retained proportion?

Taxi Marshalling;
Enforcement of licensing and noise pollution legislation;
Transport infrastructure e.g. hackney carriage stands;
Transport provision e.g. late night bus services; and
Street cleaning.

16. What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

In order to maximize the effectiveness of the levy, licensing authorities should be able to use it to fund services which extend to both preventing and tackling alcohol related crime and disorder and the management of the night time economy.

17. If you have any comments on the Impact Assessment, please detail them here?

None.

18. If you have any comments on the Impact Assessment, please detail them here?

None.

19. If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

Unknown at present – 120 premises in the City are licensed to supply alcohol for consumption on the premises after midnight (with the exception of those licensed in this regard on New Year's Eve only)