

# AGENDA

## LICENSING ACT 2003 COMMITTEE MEETING



Date: Thursday 22 March 2012  
Time: 6.45 pm or at the conclusion of  
the Licensing Committee,  
whichever is the later  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors FitzGerald (Co-Chair), Mrs Gibson,  
Mrs Hinder, Naghi, Mrs Parvin,  
Warner, Yates, Mrs Joy, Parvin (Co-  
Chair) and Mrs Grigg

---

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers

**Continued Over/:**

---

**Issued on 14 March 2012**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact JANET BARNES on 01622 602242**. To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Minutes of the Meeting Held on 21 November 2011 1 - 2
8. Report of the Head of Democratic Services - Government Consultation Paper on Late Night Levy and Early Morning Restriction Orders 3 - 32

## MAIDSTONE BOROUGH COUNCIL

### LICENSING ACT 2003 COMMITTEE

#### MINUTES OF THE MEETING HELD ON MONDAY 21 NOVEMBER 2011

**Present:** Councillor Parvin (Chairman) , and  
Councillors FitzGerald, Mrs Gibson, Mrs Grigg,  
Mrs Hinder, Mrs Joy, Naghi, Mrs Parvin, Warner and  
Yates

38. APOLOGIES FOR ABSENCE

There were no apologies for absence.

39. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

40. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

41. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

42. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

43. EXEMPT ITEMS

RESOLVED: That the items on the Agenda be taken in public as proposed.

44. MINUTES

RESOLVED: That the Minutes of the Meeting held on 15 September 2011 be approved as a correct record and signed.

45. REGULATED ENTERTAINMENT - A CONSULTATION PROPOSAL TO  
EXAMINE THE DEREGULATION OF SCHEDULE ONE OF THE LICENSING  
ACT 2003

The Committee considered the report of the Head of Democratic Services setting out a suggested response to a consultation from the Department for Culture, Media and Sport proposing to examine the deregulation of Schedule One of the Licensing Act 2003 relating to regulated entertainment.

Members expressed their concern about deregulating events for under 5,000 people. This figure was felt to be too high, especially with regard to potential multiple events at neighbouring outdoor sites, no notification of the events and attendees consuming their own alcohol. All of which could have a significant impact in an area.

RESOLVED: That the proposed responses to the questions set out in the Department for Culture, Media and Sport consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003 relating to regulated entertainment as set out in Appendix B to the report of the Head of Democratic Services be approved, subject to the response being amended to include wording about agreeing deregulation of a smaller number (up to 2,500) would be acceptable; indicating concern about the larger numbers due to no notice of events occurring ,potential multiple events outdoors and attendees consuming their own alcohol which could be a problem and have a significant impact.

46. DURATION OF MEETING

7.01 p.m. to 7.45 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 COMMITTEE**

**22 MARCH 2012**

#### **REPORT OF HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Neil Harris**

#### **1. GOVERNMENT CONSULTATION PAPER ON LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS**

##### 1.1 Issue for Decision

1.1.1 To consider a proposed response to the government consultation paper on the late night levy and early morning restriction orders.

##### 1.2 Recommendation of Head of Democratic Services

1.2.1 That the draft response attached in Appendix 2 to the report be approved for submission to the Government in response to the consultation paper on the Late Night Levy and Early Morning Restriction Orders.

##### 1.3 Reasons for Recommendation

1.3.1 A consultation paper on dealing with the problems of late night drinking consulting on secondary legislation for the Late Night Levy and Early Morning Restrictions Orders has been issued by Government seeking views on a number of questions regarding the processes for the implementation of this legislation. A copy of the consultation paper is attached as Appendix 1 to the report.

1.3.2 Working with the Police, the Community Safety Unit and the Safer Maidstone Partnership a draft response has been prepared to the questions set out within the consultation paper and a copy of those questions together with the proposed responses is attached at Appendix 2.

##### 1.4 Alternative Action and why not Recommended

1.4.1 The Committee could decide not to respond but to not do so would mean that the Council had missed an opportunity to comment on

proposed government legislation that will have implications for the council, residents and businesses.

1.5 Impact on Corporate Objectives

1.5.1 The proposed response sets out the arrangements for the levy and orders that would support the council's strategic priorities. .

1.6 Risk Management

1.6.1 There are no significant risk management issues.

1.7 Other Implications

1.7.1

- 1. Financial
- 2. Staffing
- 3. Legal
- 4. Equality Impact Needs Assessment
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

X

1.7.2 Legal implications are dealt with in the body of the report.

1.8 Relevant Documents

1.8.1 Appendices

1.8.2 Appendix 1 and Appendix 2.

1.8.3 Background Documents

1.8.4 None.

**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

.....

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



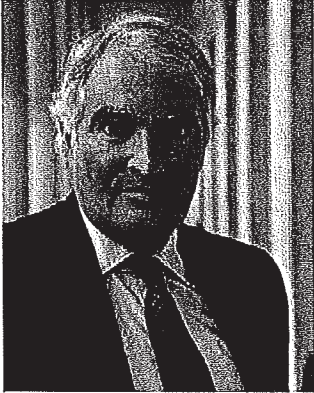
Home Office



# CONTENTS

Ministerial Foreward.....	3
1. Introduction.....	4
2. About this consultation.....	5
Part I - EMROs .....	8
3. Process.....	8
4. Exemptions.....	8
Part II - The late night levy .....	10
5. Process.....	10
6. Exemptions and reductions to the levy.....	10
7. Licensing authority levy revenue.....	14
Additional sections.....	15
8. Impact Assessment.....	15
9. About You.....	15
10. Confidentiality and Disclaimer.....	15
11. Checklist .....	17
Annex A - EMRO process map .....	19
Annex B - Late night levy process maps.....	20

# 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 'Lord Henley', written in a cursive style.

**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

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

## Basic Information

<b>To:</b>	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.
<b>Duration:</b>	The consultation runs for 12 weeks from 17th January to 10th April.
<b>Enquiries:</b>	<a href="mailto:Alcohol.Consultation@homeoffice.gsi.gov.uk">Alcohol.Consultation@homeoffice.gsi.gov.uk</a>
<b>How to respond:</b>	<p>Information on how to respond to this consultation can be found on the Home Office Website at <a href="http://www.homeoffice.gov.uk/about-us/consultations">http://www.homeoffice.gov.uk/about-us/consultations</a>. 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>
<b>Additional ways to become involved:</b>	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.
<b>After the consultation:</b>	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.

## Background

<b>Getting to this stage:</b>	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).
<b>Previous engagement:</b>	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 objectives<sup>1</sup>. There are some types of premises

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

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



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.

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

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:

Name	Definition
<b>Premises with overnight accommodation</b>	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.
<b>Theatres and cinemas</b>	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.
<b>Community premises</b>	Those premises that have successfully applied to remove the mandatory DPS requirement.
<b>Casinos and bingo halls with a membership scheme</b>	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
<b>Premises with overnight accommodation</b>	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.
<b>Restaurants</b>	<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"> <li>(i) customers are shown to their table;</li> <li>(ii) food is provided in the form of substantial table meals that are served and consumed at the table;</li> <li>(iii) premises primarily serve meals to those eating on them, and</li> <li>(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.</li> </ul>
<b>Theatres and cinemas</b>	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.
<b>Casinos Bingo Halls</b>	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
<b>Community Amateur Sports Clubs (CASCs)</b>	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.)
<b>Community premises</b>	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
<b>Country village pubs</b>	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
<b>Country village pubs</b>	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:

- 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**

19

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

## 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).

20

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

## 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?**

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](mailto: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:**

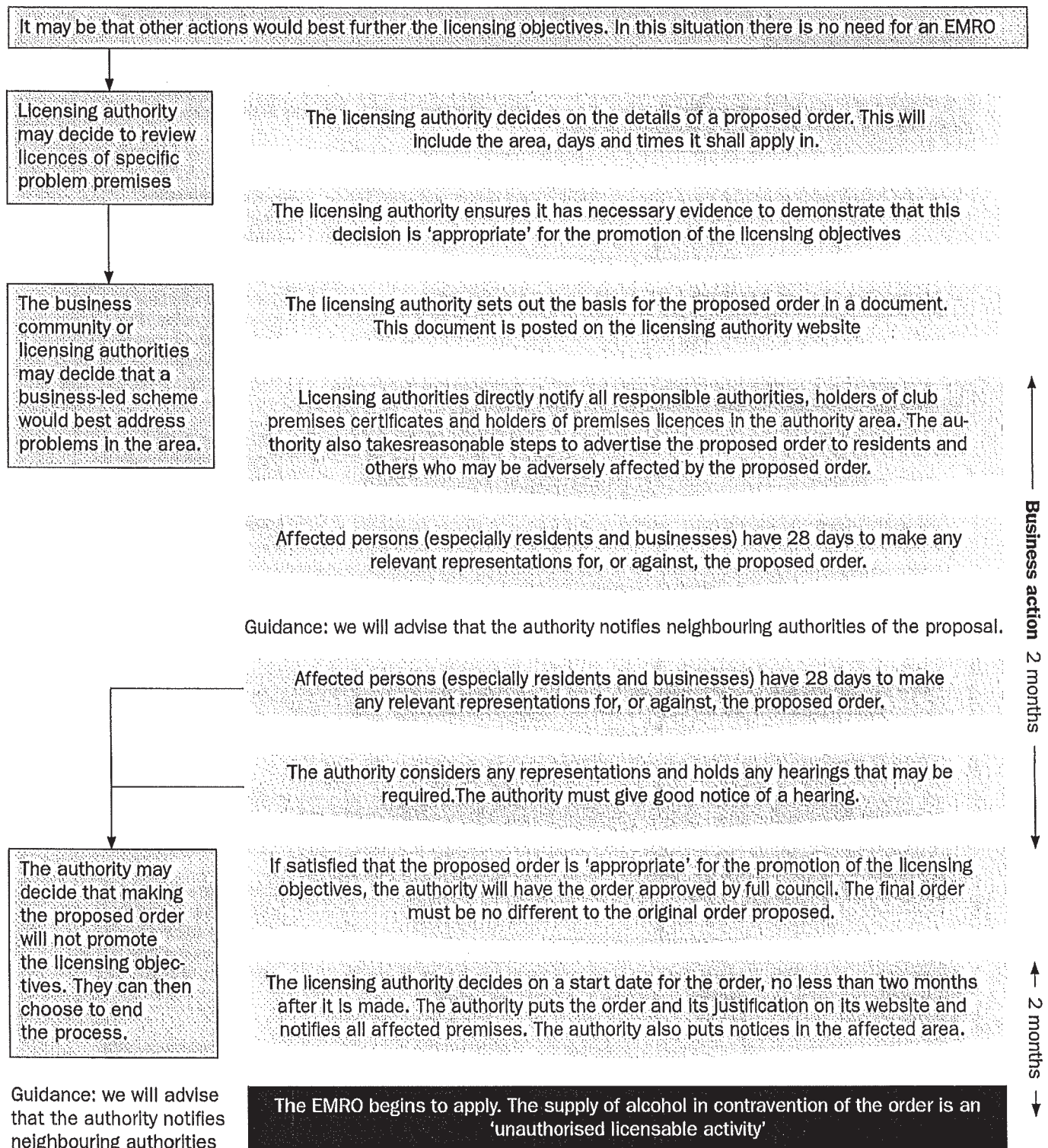
**If you have any comments on the Impact Assessment, please detail them here?**

**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.



Guidance: we will advise that the authority notifies neighbouring authorities and the Secretary of State of the order.

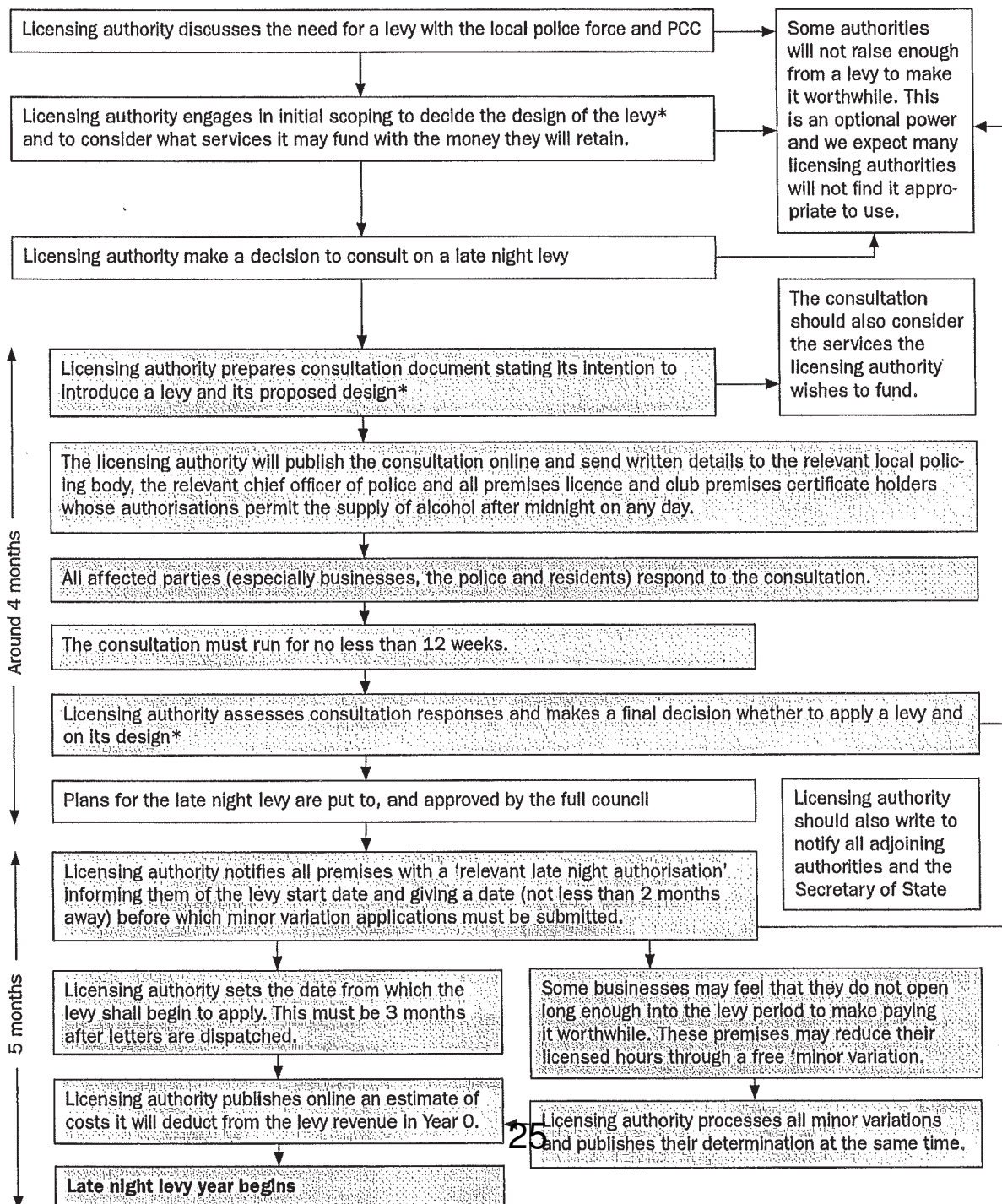
The EMRO begins to apply. The supply of alcohol in contravention of the order is an 'unauthorised licensable activity'

Guidance: we will advise that the authority notifies neighbouring authorities and the Secretary of State of the order.

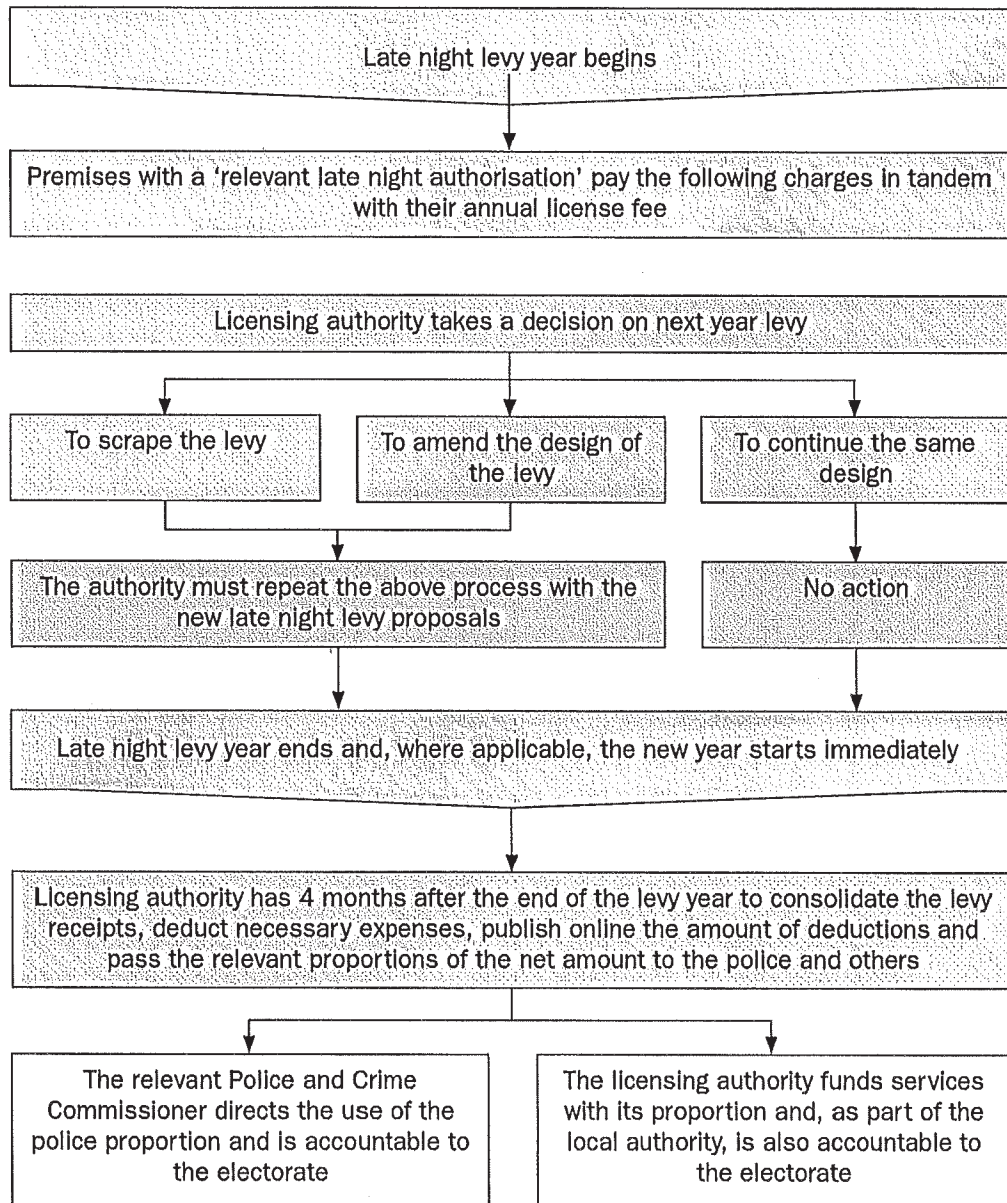
Should the order be time limited, the licensing authority must undergo the process above for it to continue.

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

Essential processes which will be deductible from levy revenue	<p><b>'late night supply period'</b>- 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><b>'relevant late night authorisation'</b>- a licence or certificate which permits the supply of alcohol within the 'late night supply period'</p>
Key stages for business	<p><b>*The levy design</b> - 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)







Home Office

ISBN: 978-1-84987-615-5

Published by the Home Office © Crown Copyright 2012<sup>7</sup>

To view online visit:

<http://www.homeoffice.gov.uk/about-us/consultations/late-night-drinking>

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

**PART 1 EARLY MORNING RESTRICTION  
ORDERS**

**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?

**Proposed response:**

Yes

**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?

**Proposed response:**

No, an EMRO should not 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**?

**Proposed response:**

Agree that the categories of premises set out in the Consultation Paper 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**?

**Proposed response:**

No

**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?

**Proposed response:**

No, because the request for a levy should arise from either the Licensing Authority or the Police but that would not prevent these groups from raising it direct with their local Councillor.

**CONSULTATION QUESTION 6:**

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

**Proposed response:**

Agreed .

**CONSULTATION QUESTION 7:**

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

**Proposed response:**

Agreed

**CONSULTATION QUESTION 8:**

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

**Proposed response:**

Rather than being automatically exempt, the Licensing Authority should have the opportunity to make club premises exempt if there is a record of having had no problems.

**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

**Proposed response:**

It should be an option available to Licensing Authorities particularly as there would only be a few such properties in any potential area to which a reduction would be applied.

**CONSULTATION QUESTION 10:**

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

**Proposed response:**

Agreed

**CONSULTATION QUESTION 11:**

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

**Proposed response:**

Agreed, but should be based on effectiveness of the best practice scheme.

**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?

**Proposed response:**

Not relevant to Maidstone as we have no such benchmarks at present but support the principle as long as the scheme works.

**CONSULTATION QUESTION 13:**



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

**Proposed response:**

Agreed, as long as there is a maximum and 30% seems an appropriate amount but more importantly that a discount should not be given for similar schemes.

**CONSULTATION QUESTION 14:**

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

**Proposed response:**

Yes, the Licensing Authority should always have the ability to vary based on specific issues in their area in conjunction with stakeholders.

**CONSULTATION QUESTION 15:**

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

**Proposed response:**

Licensing Authorities should be able to use their retained proportion of the levy for anything pertaining to additional activities it undertakes arising from the late night economy.

**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?

**Proposed response:**

There should be no restriction other than that expenditure should be on services that have arisen as a result of the late night economy.

**CONSULTATION QUESTION 17:**

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

**Proposed response:**

No comments, other than the process does take some time to take effect.

**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?

**Proposed response:**

Approximately 18 if limited to town centre area.