



Home Office

Late Night Levy: A consultation on the charge to be applicable to late night refreshment premises

Government consultation

This consultation begins on 09 January 2023

This consultation ends on 03 April 2023

About this consultation

- To:** This is a public consultation. Any member of the public can respond. The consultation covers England and Wales where these proposals apply.
- Duration:** From 09 January 2023 to 03 April 2023
- Enquiries (including requests for the paper in an alternative format) to:** Alcohol Licensing and Legislation Team
Email: alcohollicensingconsultations@homeoffice.gov.uk
- How to respond:** Please send your response by 03 April 2023
- Responses can be submitted online through the GOV.UK website at:
<https://www.gov.uk/government/consultations/late-night-levy>
- or by post by sending responses to:
Late Night Levy LNR Charge Consultation 2022
Alcohol Licensing and Legislation Team
5th Floor, Fry Building
Home Office
2 Marsham Street, SW1P 4DF
Email: alcohollicensingconsultations@homeoffice.gov.uk
- After the consultation:** Responses will be analysed and a 'Response to Consultation' document will be published on GOV.UK. This will explain the Government's final policy intentions. All responses to the consultation will be treated as public, unless stated otherwise.

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Introduction

This paper sets out for consultation proposals on the charge to apply to late night refreshment providers. The consultation is aimed at late night refreshment providers, local licensing authorities, the police, licensed premises, members of the public and other interested parties in England and Wales where these proposals apply.

This list is not meant to be exhaustive or exclusive and responses are welcome from anyone with an interest in or views on the subject covered by this paper.

Copies of this consultation are being sent to:

Local Government Association
National Association of Licensing Enforcement Officers
Institute of Licensing
National Organisation of Residents Associations
National Police Chiefs Council
Night Time Industries Association
UK Hospitality
Association of Police and Crime Commissioners
British Beer and Pub Association
Association of Licensed Multiple Retailers
Wine and Spirits Trade Association
Alcohol Health Alliance
Alcohol Research and Concern
Institute of Alcohol Studies

An Impact Assessment has been prepared on the proposals outlined in this consultation and has been published, it can be found at; [changes to the late night levy, impact assessment \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544447/changes-to-the-late-night-levy-impact-assessment.pdf). This was produced in 2016 when the consultation was originally proposed. The Government recognises that businesses operating in the night time economy have faced particularly challenging times over the course of the pandemic. However, we believe the time is right to finally commence the changes made to the levy via the Policing and Crime Act in 2017 which have been considerably delayed. The requirements for a local authority to consult widely before taking a final decision on the introduction of the levy provides sufficient safeguards to protect businesses and use the power effectively.

Background

Late night levy

1. The late night levy (the 'levy') is a discretionary power enabling licensing authorities in England and Wales to collect a financial contribution from premises that profit from the sale of alcohol late at night (between 12am and 6am) and to put the funds raised towards policing and other costs associated with the management of the night time economy (NTE). At present, if licensing authorities wish to introduce a levy it must be applied to their whole local area. Licensing authorities were given the power to introduce a levy through the Police Reform and Social Responsibility Act 2011.
2. Currently, legislation requires that the net levy revenue must be split between the licensing authority and the relevant Police and Crime Commissioner (PCC). The licensing authority is required to pay at least 70% of the net levy revenue (minus administrative costs) to the police. Guidance¹ issued by the Home Office states that licensing authorities and PCCs can negotiate a change to this 70:30 split and pool funds altogether, the decision for which must be subject to consultation in the same way as a decision to introduce the levy.
3. The levy charges are linked to the current licence fees system under the Licensing Act 2003, with licence holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C). The charges are as follows:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Levy Charges	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

¹Home Office (2005) Amended guidance on the late night levy [\[link\]](#)

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4. Since the levy was brought into force in 2012, the most recent 2022 statistical bulletin finds that only 9 LA's have implemented the levy². This may be because local authorities consider that the levy is inflexible and unfair in terms of which businesses pay the levy. In 2017, the Government committed to improve the late night levy in order to increase its use and raise more funds by making it more flexible for local areas, fairer to business and more transparent.
5. Section 142 of the Policing and Crime Act 2017 introduced several changes to the late night levy, which are yet to be commenced. Once in force, these changes will give licensing authorities the power to charge late night refreshment (LNR) premises the levy to assist with the cost of policing the NTE, give PCCs the right to request that a licensing authority formally propose a levy and require licensing authorities to publish information about how the revenue raised from the levy is spent.
6. To ensure the LNR levy charge is fair and appropriate, the then Government pledged to delay commencement of the levy reforms until it has publicly consulted on the charge to be applicable to LNR providers.

Exemptions from the levy

7. Licensing authorities may exempt certain categories of premises from the requirement to pay the levy. These exemption categories are prescribed in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:
 - *Premises with overnight accommodation*: This exemption is not applicable to any premises which serve alcohol to members of the public not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
 - *Theatres and cinemas*: This exemption applies to premises selling alcohol for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises.
 - *Bingo halls*: Premises in this category must be licensed and regulated under the Gambling Act 2005.
 - *Community Amateur Sports Clubs* ("CASCs"): Premises in this category must have relief from business rates by virtue of being a CASC (prescribed under Section 658 of the Corporation Tax Act 2010).
 - *Community premises*: Premises in this category must have successfully applied for the removal of the mandatory Designated Premises Supervisor ("DPS") requirement and demonstrated that they operate responsibly.

² GOV.UK (2022) *Alcohol and late night refreshment licensing England and Wales, year ending 31 March 2022* [[link](#)]. N.B the figure in the Impact Assessment in 2016 was 7 LAs and a more recent figure has been used in this instance.

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- *Country village pubs*: In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.
- *New Year's Eve*: Licensing authorities can offer an exemption from the levy to premises which only have a relevant late-night authorisation by virtue of being permitted to supply alcohol for consumption on the premises on 1st January in every year.
- *Business Improvement Districts ("BIDs")*: Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the NTE and have a satisfactory crime and disorder focus. It is up to the licensing authorities' discretion to determine whether the BIDs in their area are eligible.

Reductions from the levy

8. Licensing authorities may also promote and support participation by premises in business-led best practice schemes, by deciding whether such premises should benefit from a 30% reduction to the amount they are required to pay under the levy if they meet benchmarks set out in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

Late night refreshment

9. The provision of 'late night refreshment' (LNR) is defined in the Licensing Act 2003 as the supply of hot food and hot drink to the public between 11pm and 5am (this excludes those only providing hot drinks). LNR is regulated because it may be linked to alcohol-fuelled crime and disorder in the night-time economy; for example, fast-food shops where late-night drinkers congregate.
10. The Licensing Act 2003 provides appropriate regulation on how LNR businesses should operate in these circumstances. Shops, stores and supermarkets selling only cold food and cold drink, whether immediately consumable or not, from 11pm are not licensable as providing late night refreshment. The 2003 Act affects premises such as night cafés and takeaway food outlets where people may gather to purchase hot food or drink at any time from 11pm until 5am. In this case, supply takes place when the hot food or hot drink is given to the customer and not when the payment is made.
11. Some premises provide hot food or hot drink between 11pm and 5am by means of vending machines. The supply of hot drink by a vending machine is not a licensable activity and is exempt under the 2003 Act provided the public have access to and can operate the machine without any involvement of the staff.
12. However, this exemption does not apply to hot food. Premises supplying hot food for a charge by vending machine are licensable if the food has been heated on the premises, even though no staff on the premises may have been involved in the transaction.

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13. LNR premises will only be charged the late night levy in areas where licensing authorities decide that they place demands on police resources in the NTE. In each area, licensing authorities will have the option of charging only premises licensed to sell alcohol, or to premises licensed to sell alcohol and premises licensed to sell late night refreshment.
14. When choosing to designate a particular area as exempt, the LA must define the location, which can be of any size. When choosing to exempt the provision of LNR at particular times between 11pm and 5am, the exemption must apply to the whole LA area.

Exemption categories

15. Licensing authorities may exempt premises from having to hold a late night refreshment licence if their activity takes place:
 - on or from premises which are wholly situated in a designated area;
 - on or from premises which are of a designated description; or
 - during a designated period (beginning no earlier than 11pm and ending no later than 5am)
16. When choosing to designate particular types of premises as exempt, the exemption must apply to the whole local area. Licensing authorities can exempt the following types of premises from paying the levy, as designated in the Licensing Act 2003 (Late Night Refreshment) Regulations 2015:
 - motorway service areas;
 - petrol stations;
 - local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
 - hospitals (except domestic premises);
 - community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present; and
 - licensed premises authorised to sell alcohol by retail for consumption on the premises between the hours of 11pm and 5am.

The proposals

Option 1: Base LNR levy charges on the current licence fee system as for alcohol venues, with no option for licensing authorities to apply a discount.

17. The Government does not feel it is justified to bring in any new levy bands as the current system already takes into account the size and revenue of businesses.
18. As such, the levy charges that will be applicable to LNR premises will be linked to the current licence fees system under the Licensing Act 2003, with LNR premises being placed in bands based on their premises rateable value. Please see paragraph 3 for more information.

Option 2: Base LNR levy charges on the current licence fee system as for alcohol venues, with the option for licensing authorities to offer a 30% discount to LNR premises qualifying for the Small Business Rate Relief.

19. Under Part III of the Local Government Finance Act 1988, licensing authorities can offer a reduction to licence holders in relation to premises that are in receipt of Small Business Rate Relief (SBRR). This reduction is currently only available in relation to premises that supply alcohol for consumption on the premises.
20. This option is similar to option 1 above, with the difference that licensing authorities will also be able to offer this SBRR reduction in respect of qualifying LNR premises. The Government is mindful of not imposing unnecessary or disproportionate charges on LNR premises as many are small businesses and, by definition, are licensed to be open late at night.

Questionnaire

Please see www.gov.uk for an online questionnaire, which can be completed and returned online.

We would welcome responses to the following questions set out in this consultation paper.

Q1. In light of the Government’s commitment to extend the late night levy to LNR providers, which option do you support on the charge to be applied?

Option 1	Base LNR charges on the current licence fee system as for alcohol venues, with no option for local authorities to apply a discount.	<input type="checkbox"/>
Option 2	Base LNR charges on the current licence fee system as for alcohol venues, with the option for local authorities to offer a 30% reduction to LNR providers that qualify for Small Business Rate Relief (SBRR) (as currently available in relation to premises that supply alcohol for consumption on the premises).	<input type="checkbox"/>
Neither		<input type="checkbox"/>

Please explain why or if there is an alternative option you think should be considered:

About you

Please use this section to tell us about yourself.

Please note that you are under no obligation to provide this information should you not wish to do so. If you are happy to provide personal information please note that:

- any personal information will be stored on a secure system.
- it will not be shared with third parties.
- your personal information will be kept on record for no more than six months and be used for the purposes of this consultation only; and
- you may be contacted by a Home Office official for your feedback on this consultation and to discuss your answers in more detail.

Full name	
Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	
Date	
Company name/organisation (if applicable)	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details and how to respond

Please complete the Consultation online at:

<https://www.gov.uk/government/consultations/late-night-levy>

or send your response by 03 April 2023 to:

Late Night Levy Consultation 2022
Alcohol Team, 5th Floor Fry Building
Home Office
2 Marsham Street
London, SW1P 4DF

Email: alcohollicensingconsultations@homeoffice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Extra copies

This consultation is available online at:
[insert link when available]

Alternative format versions of this publication can be requested from
alcohollicensingconsultations@homeoffice.gov.uk

Publication of response

A paper summarising the responses to this consultation will be published. The response paper will be available online at [insert link when available].

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed 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 the 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

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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 Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances. This means that your personal data will not be disclosed to third parties.

Impact Assessment

The impact assessment for the proposals in this consultation can be found at the following link: [changes to the late night levy, impact assessment \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/531117/changes_to_the_late_night_levy_impact_assessment.pdf)

As noted above the impact assessment was produced in 2016. Unfortunately, the consultation has been significantly delayed due to various reasons, but the impact assessment still follows government guidelines and remains valid and robust.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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