

PLYMOUTH CITY COUNCIL

Subject: Safe and Vibrant Night Time – Late Night Levy
Committee: Cabinet
Date: 25 March 2014
Cabinet Member: Councillor Vincent
CMT Member: Anthony Payne (Strategic Director for Place)
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Ref:

Key Decision: No
Part: I

Purpose of the report:

The Police Reform and Social Responsibility Act 2011 introduced the ability for Licensing Authorities to charge a late night levy to holders of licences to sell alcohol between midnight and 6am.

The Cabinet Member for the Environment authorised a consultation to consider the merits of introducing a late night levy scheme within the City. The money received from the levy would be held within a central ring fenced account and managed by the Safer Plymouth (Community Safety Partnership). The money would be allocated to projects with the aim of making the night time economy safer and reducing crime.

This report contains the results of the consultation and considers the merits of introducing the late night levy at this time.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Growing Plymouth

The potential work funded through the levy will assist in the delivery of a safer, more vibrant Plymouth. This in turn should attract more visitors to the City and also support an increase in the numbers of citizens of Plymouth who will utilise the social, cultural and sporting offers available. Opportunities for increased levels of employment should follow. These benefits should be considered against the potential impact on the economic sustainability of the on licenced trade in the current economic climate.

Confident Plymouth

A safe and vibrant leisure economy will allow Plymouth to be positively marketed attractive destination both nationally and internationally. This will require improvements to our current leisure provision and inward investment of new business to stimulate competition and drive up standards.

Caring Plymouth

Funding may be available to reduce the level of alcohol harm and thereby reduce inequality. Whilst alcohol misuse affects individuals from all sections of society, those from the most disadvantaged communities experience the highest burden of harm. Working as a co-operative Council we will continue to facilitate voluntary projects with the trade to seek improvements to the night time economy.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

Subject to the various possible exemptions and reductions it is anticipated that the levy could produce between £80,000 to £150,000 pa.

Levy income has not been allocated to any projects and so a deferment will have no impact on any current work plans.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The management of the night time economy has a key role in reducing alcohol related crime and disorder, the fear of crime and the prevention of nuisance or anti-social behaviour. Risk taking behaviour, such as irresponsible alcohol usage can affect individual, their families, local communities and society as a whole. Work funded through the levy will help manage the negative aspects of alcohol supply and use in the night time economy.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

It is recommended that Members consider this report and resolve to:

- 1 – Defer the decision on the introduction of the late night levy until an assessment can be completed regarding the changes to the Licensing Act and licensing fees

- 2 – Use existing and new liaison arrangements with the licenced trade to expand the current voluntary schemes or projects that seek to promote a safe and vibrant night time in Plymouth

Reason

This report contains the results of the consultation and information relevant to determining whether the late night levy should apply within the City. Members should consider this information in making their decision.

Legislative changes likely to come into effect over the next 6-9 months have the ability to impact on the trade and the desirability of the levy.

Any deferment period should be used to engage with the trade to introduce voluntary projects or schemes to understand the level improvements achievable without the need for the levy.

Alternative options considered and rejected:**Introduce**

It is clear that the Police and other agencies spend considerable resources in supporting the night time economy and dealing with its negative impacts. The need for the levy has therefore been made. This has to be balanced, however, with the overall desirability of the levy. Clearly the impact of the trade needs to be understood and considered. Given the current uncertainty regarding the level of future fees and other licensing changes this impact cannot be properly assessed.

Reject

At the moment the need for the levy has been supported but certain aspects of the impact cannot be accurately assessed. This assessment will be possible over the next 6-9 months and so a complete rejection is not appropriate at this time.

Published work / information:

[S182 Statutory Guidance, issued by the Home Office](#)

[Regulators Code \(Better Regulation Delivery Office\)](#)

[Police Reform and Social Responsibility Act 2011, Part 2, Chapter 2](#)

[The Late Night Levy \(Application and Administration\) Regulations 2012](#)

[The Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#)

[Licensing Act 2003](#)

[Amended Guidance on The Late Night Levy”, December 2012, Home Office](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Responses to consultation	X								
Equalities Impact Assessment	X								

Sign off:

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Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0 BACKGROUND

- 1.1 The provision of the late night levy was introduced by the Government through the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy. The purpose of the levy is to assist councils and the police manage and improve the night time economy. The money can be used for a range of things and can be given to other agencies where they can assist in the reduction of crime and disorder or improve the night time economy.
- 1.2 Alcohol is an important component of Plymouth's economy, particularly within the city's Evening and Night Time Economy (ENTE). Analysis of the ENTE using 2011 data considered the scale and value of accommodation, restaurants (including unlicensed venues, take away food shops and mobile food outlets) and licensed clubs, pubs and bars. It estimated that Plymouth's overall ENTE supported approximately 6,400 employees and was worth around £93.2 million in terms of Gross Value Added (GVA). Licensed clubs, pubs and bars accounted for 2,000 of those employees and the largest share of the GVA at £28.6 million. Overall the ENTE accounted for 6% of the city's total employment; this compares to the UK average of 5.7%.
- 1.3 The use of alcohol, however, can have a negative impact on individuals, families, local communities and Plymouth as a whole. Whilst it is not possible to fully quantify the impact of alcohol misuse across the city a number of indicators provide evidence of harm. During 2011/12 there were 2,513 recorded crimes attributable to alcohol – and nearly 7,000 hospital admissions. Alcohol accounts for approximately 70% of violent crime and the Police allocate a large amount of resource to Policing the night time economy.
- 1.4 The advantages of introducing a late night levy were discussed with the Police and Crime Commissioner and Devon and Cornwall Constabulary. Following these discussions a public consultation was undertaken.
- 1.5 This report highlights the results of the consultation and details of a levy scheme.

2.0 DETAILS OF THE LATE NIGHT LEVY

- 2.1 This is a discretionary power for Councils to require a fee from premises that sell alcohol between midnight and 6am. The Council can decide what times the levy will operate. The levy could be imposed on premises that operate any time between midnight & 6am. The Council does not have the power to limit the levy to certain parts of the city. It would apply to alcohol sales on or off premises.
- 2.2 Every licensed premise, with the ability to sell alcohol between the times set by the Council, will have to pay the levy. This would include suburban businesses. The Council has discretion to either exempt or allow a reduction in the amount of levy in some specific cases. This report lists all the possible exemptions and reductions which the Council would need to consider as part of any decision to implement a late night levy.

2.3 How much will licensees pay?

The levy is dependent on the rateable value of the premises and the levy amounts are set by Government.

Table I: Cost of levy to premises for each Rateable Value

Rateable Value		Annual Levy	Cost per week
Band A	Nil - £4,300	£299	£5.75
Band B	£4,301-£33,000	£768	£14.76
Band C	£33,001-£87,000	£1,259	£24.21
Band D	£87,001-£125,000	£1,365 * (£2,730)	£26.25 (£52.50)
Band E	£125,001 and above	£1,493 * (£4,440)	£28.71 (£85.38)

* Those that are Band D or E where the main use is the sale for consumption on the premises will pay an additional fee

Most premises in Plymouth are rated as Band B or C.

2.4 How much money will the late night levy raise?

The final amount is difficult to estimate but will depend on:

- What time of night the levy will start
- How many premises will be open during the late night period
- Which exemptions and reductions will be applied by the Council

Due to the number of potential exemptions or reductions and the trade amending their operating hours, it is difficult to provide an exact income if the levy is introduced. Theoretically it may range from £80,000 to £150,000 per year subject to all of these variables.

The expenses associated with the collection and administration of the levy can be deducted from this amount with the remainder being allocated to the Police and Crime Commissioner (70%) and the Local Authority (30%).

The costs of administering the system can be taken from the levy income. It is estimated that the costs of introducing the scheme in the first year will be up to £12,000. The annual on-going costs should be relatively low at up to £2,000 pa. The costs of administering the systems must be made public on an annual basis

2.5 Will there be a transition period and when will it start?

The levy must be approved by the Council who will agree when it should start and any transition periods. Any licensee who wishes to amend their licence and reduce the operating hours to before the time set for the levy can do so via a free minor variation.

2.6 Will the need for the levy be reviewed?

All aspects of the licensing policy, including the levy will be reconsidered at least every five years to ensure that the policies are still appropriate.

2.7 What can the money be spent on?

Possible ideas posed by the consultation and that could be considered by the Safer Plymouth (CSP) include:

- Taxi marshals
- CCTV improvements
- Street pastors
- Street marshals
- Street cleaning
- Enforcement initiatives
- Personal safety initiatives
- Health care facilities
- Additional Police or private security
- Providing temporary public conveniences
- Improved lighting
- Improved response to noise complaints
- Financial support could also be provided to assist schemes that promote improved management of licensed premises, such as Best Bar None or Pubwatch

2.8 Exemptions and reductions from the levy

Exemptions

The following premises may be allowed an exemption:

1. Premises with overnight accommodation

This exemption does not apply if alcohol is served during the late night supply period to members of the public who are not staying overnight.

2. Theatre and cinemas

This exemption applies if alcohol is served during the late night supply period only for consumption on the premises to ticket holders, participants in the production or invited guests to private events; they must be bona-fide theatres or cinemas and the sale of alcohol must not be their primary purpose.

3. Bingo Halls

These premises must have licences under the Gambling Act 2005 and the playing of bingo must be the primary activity.

4. Community Amateur Sports Clubs

These are clubs registered as Community Amateur Sports Clubs that are entitled to various tax concessions including relief from business rates.

5. Community Premises

These are premises that form part of a church hall, chapel hall, village hall, parish hall, community hall or other similar building.

6. Country Village Pubs

These pubs are solely designated in rural settlements with a population of less than 3,000.

7. Business Improvement Districts (“BIDs”)

These premises are within a BID, which are subject to the BID levy and where the purpose for which the BID arrangements were established, included purposes which are likely to result in the reduction or prevention of crime and disorder in relation to the supply of alcohol between midnight and 6 am.

8. New Year’s Eve

To pertain to premises which are authorised to sell alcohol between midnight and 6 am only on New Year’s Day.

2.9 Reductions

The Council can allow a 30% reduction of the levy for two types of premises; there can only be one reduction even for premises that fall within both categories.

1. Small Business Rate Relief

A reduction can be granted in respect of premises that only supply alcohol for consumption on the premises, where the rateable value is £12,000 or less, and which receive Small Business Rate Relief.

2. Members of Business-Led Best Practice Schemes

A reduction can be granted in respect of premises that participate in business led best practice schemes. In this way, the levy can be used to promote and support participation in such schemes. The scheme has to comply with benchmarks specified in regulations and statutory guidance.

3.0 CONSULTATION

- 3.1 The consultation exercise was made as wide as possible and complied with the necessary legal requirements. For this review the consultation period commenced on the 5th August and ended on the 5th October 2013.
- 3.2 Letters were sent to all premises holding either a ‘premises licence’ or club premises certificate’ advising them of the consultation. A similar letter was sent to the Resident / Community groups and faith groups for which contact details were available. A press release was issued and local media coverage was obtained. A total of over 1000 people or groups were contacted directly by letter.
- 3.3 The Police and Crime Commissioner and the responsible authorities were consulted (Police, Child Protection, Trading Standards, Environmental Health, Public Health, Transport & Planning Service, Maritime & Coastguard Agency). Consultation events for the trade and local communities were held across the night time economy areas.
- 3.4 All ward Councillors were sent copies of the consultation documentation.
- 3.5 The Late Night Levy was also considered by the Your Place scrutiny panel on the 30th September 2013. There were no recommendations.

4.0 CONSULTATION RESPONSES

4.1 A total of 68 responses were received as a result of the consultation process. The Police submission and crime data is contained in Appendix 1 and the written responses are contained in the background paper. Appendix 2 contains the results of responses received from the consultation questionnaire.

4.2 Should the levy be introduced?

In response to whether the levy should be introduced **38 (56%) said YES** and **30 (44%) said NO**.

By looking at the replies it is clear that the trade are unanimously against the levy with the majority of the public being for the levy. The trade accounted for at least 20 of the no responses.

The trade's main reasons for opposing the levy were:

- It is unfairly placing the burden on business that trade beyond midnight, when the majority of the alcohol is sold and consumed before midnight.
- Supermarkets who cause the most problems in supplying cheap alcohol will not pay the levy
- It will disproportionately affect small businesses
- Businesses are well run and should therefore not pay
- It will cause many premises to reduce their hours thereby reducing choice and diversity in the ENTE
- It will cause the loss of some businesses and jobs as hours are reduced or prices go up
- It will be a disincentive for inward investment into our ENTE
- It will limit staggered closing and require those that trade to extend their hours further to recover the costs
- The level of income to be received will not be sufficient to be effective
- Existing taxes and charges pay for Policing and other costs
- Very few Councils have considered this appropriate so why is Plymouth City Council?
- This may reduce funds provided by businesses to support voluntary schemes
- Would prefer voluntary schemes and working with local businesses first
- Crime and disorder in the ENTE is falling so the levy is not required
- There are insufficient data in the consultation to demonstrate the need for the levy

4.3 It is clear that the ENTE is experiencing reduce numbers of customers and therefore income. Equally the Police and other agencies who help to manage the ENTE are suffering budget reductions and increased demand. It is accepted that the trade already contribute towards public sector spending, but a disproportionate amount is spent dealing with the problems caused by the ENTE.

4.4 When should it start?

The feedback sheet asked if it was appropriate to introduce the levy from 0030 hrs, which gave a response of 70% (40) for and 30% (18) against.

The trade were opposed to such an early time and felt a later time would be more suitable. Some commented that it would be more appropriate to be 1am or 2am to ensure only late opening premises paid the levy. Many premises close between midnight and 1am and so they

will be disproportionately affected. This is particularly relevant to licensed premises outside of the main night time economy areas.

4.5 Who should be exempted or receive reductions?

The majority agreed with the proposed exemptions and reductions. Some trade responses suggested that everyone should pay for the scheme to be fair.

There was clearly support for a BID exemption and both BIDs have submitted a proposed work plan to substantiate their exemption.

- 4.6 The consultation proposed that any trade led best practice scheme wishing to receive a 30% discount for its members should receive approval from the Licensing Committee. The consultation responses generally supported this proposal.

4.7 How would the money be spent?

The responses mirrored the consultation suggestions. There was strong support for additional policing, taxi marshals, cleansing, additional lighting and the employment of an ENTE manager. The ENTE manager post is currently being developed and is unlikely to be dependent on levy funding.

Should the levy go ahead then further work will be undertaken by the Safer Plymouth (CSP) to identify priority areas for financial support in consultation with the trade.

5.0 SHOULD THE COUNCIL INTRODUCE THE LATE NIGHT LEVY?

The Police Reform and Social Responsibility Act 2011 and the regulations regarding the levy require the Council to consider the following:

5.1 The costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am

- 5.2 Other than guidance issued by the Home Office there are no other sources of information to assist in defining or interpreting this requirement. There is an argument that a narrow view should be taken in that only costs occurring between midnight and 6am can be considered. Clearly many actions of the Police and other agencies commence before midnight with the aim of preventing crime and disorder after midnight, for example Direction to Leave Notices. In the Home Office guidance reference is made to the evening and night time economy rather than specifying the midnight to 6am period. This may infer a broad approach to the issue should be taken.

- 5.3 The Police have provided data regarding costs of resourcing the area covered by Operation Expound on Friday/Saturday nights and other key dates. This resulted in a figure of **£391,700** for the 12 months to March 2013.

- 5.4 There are other Police costs to be additionally considered. Any recorded crime will result in potential further Police involvement, including on-going investigations, detention costs and prosecution costs. There will also be crime prevention activity undertaken which would be

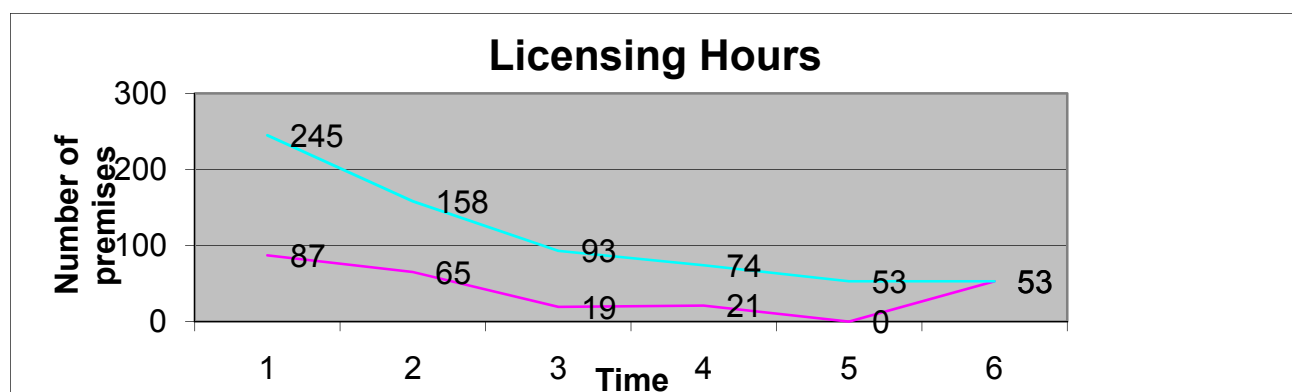
targeted at either the trade or ENTE users. It is difficult to draw out these costs but some figures are available for detention costs and criminal justice costs.

- 5.5 The detention costs for processing persons arrested and detained at Charles Cross Police Station has been calculated at £197 per detainee. During 2012 the number of persons detained between 1900 – 0659 hours was 2684. The Police believe that detention costs, based on alcohol arrests, would be in the region of £354,600 although not all would be from the ENTE.
- 5.6 The wording in the Act includes the phrase “other arrangements”, which again is not defined in the Act or guidance. There are a number of actions taken by agencies to prevent crime and disorder, such as CCTV, street lighting, safety campaigns and partnership working between agencies involved in the ENTE. The Street Safe project which provides a place of safety and first aid treatment costs £20,000 pa to operate.
- 5.7 Due to changes in the levels of crime experienced on Fridays the Police have recently announced changes to the deployment of officers within the ENTE. These changes will allow greater flexibility in the deployment of resources to meet reactive demands across the City and the ENTE. Although officer numbers will remain static fewer will be deployed solely to operate within the ENTE
- 5.8 Having had regard to those costs the desirability of raising revenue to be applied in accordance with the Act.**
This involves paying at least 70% to the Police and Crime Commissioner and the remainder being used by the Council.
- 5.9 Desirability has not been defined within the Act or guidance. The standard definition expresses the word in terms of wishing, longing, request for or to crave. It does not use words such as necessary or appropriate which are or have been used in licensing legislation.
- 5.10 Given the lack of statutory interpretation or case law it is reasonable to approach the decision making process with a broad view. The Home Office guidance states that the purpose of the Act is to enable licensing authorities to charge the levy as a means of raising a contribution towards the cost of policing the late night economy. It is not a punitive measure and it is not the Councils intention to seek the levy to be a deterrent to business activity. It is a method of obtaining a contribution from those who sell alcohol late at night.
- 5.11 Agreement has been reached with the Police that any funds received by them would be forwarded to the Safer Plymouth (CSP) to fund crime and disorder prevention projects agreed by the partnership. This partnership will ensure funding is targeted and allocated to enhance existing provision rather than replace existing funding streams. It is anticipated that the levy will result in between £80,000 to £150,000 being received. There is a wide variation due to the number of potential exemptions and reductions available and the potential for the trade to reduce their hours.
- 5.12 The argument against the levy has been summarised by the trade response and outlined in paragraph 4.2 above. There is no doubt that the economic climate is difficult for the night time trade and careful consideration will be required regarding the application and timing of the levy if it is to be introduced.
- 5.13 The potential benefits are that additional funding will enhance crime prevention opportunities to make the City safer, reduce public spending on dealing with crime and disorder and attract

new customers into our night time economy. There are currently a number for projects which lack long term financial support, but which would have a beneficial impact on late night crime and disorder. These include additional policing, enhanced CCTV provision, taxi or street marshals, street safe, street pastors, night buses and support for best practice schemes.

- 5.14 The Act and guidance does not specifically mention the need to consider current crime and disorder statistics. Taking a broad view, however, it would seem prudent to have some regard to crime figures and trends.
- 5.15 The Police have supplied data regarding crime and disorder in our night time economy areas. They have supplied information on:
- Violent Crime
 - Sexual offences
 - Robbery
 - Public Order
 - Drunkenness
- 5.16 The Police have submitted a large amount of data for different areas of the night time economy, which is contained in Appendix I. There are additionally crimes which occur in the ENTE which have not been included within the police data. These would include theft, such as mobile phones, and offences against taxi drivers.
- 5.17 There has been a substantial reduction in crime for the Operation Expound area. Operation Expound is the area defined by the Police for specific operations to police and manage the night time economy. It covers Union Street, Derrys Cross, City Centre, North Hill, Mutey Plain, Barbican and the East End (Barbican leisure village).
- 5.18 The number of offences associated with the ENTE has fallen by 28% from 1580 in 2010 to 1137 in 2012. This still means that 74% of these crimes happen within the ENTE. The reason for the substantial falls may be a mixture of improved management of the ENTE and reduced trade in the current economic climate. Across a 24 hour period a significant number occur between midnight and 6am (41.5%), involving 33% of crimes that occur between midnight and 3am, with a further 18.5% being between 3am and 6am. The percentage of crimes between 3am and 6am is increasing. The number of premises operating beyond 1am falls significantly.

Table 2 – Shows the number of premises and their latest opening hours



Top line shows the cumulative number. The bottom line shows numbers of premises with licences that finish at each hour. The 6am premises include those with 24 hour licences

- 5.19 The economic impact on the trade is an important factor and must be balanced against the potential benefits obtained from the levy.
The impact of the levy must be considered against other regulatory and financial changes that may affect the trade. Since the consultation closed the Home Office have announced changes that will either have an economic impact or affect potential levy income. These changes are outlined below.

6.0 Locally set fees

The Home office are consulting on radical changes to the way licence fees are to be set. Fees will be determined by the Council and will not be based on rateable values as done currently. The impact of these changes are difficult to assess as there are a number of options being considered. Licensing fees have not increased since 2005 and the consultation is proposing the inclusion of costs which are not currently covered by the fee income. An increase in fees is therefore likely to annual fees and Temporary Event Notices; both of which need to be considered when assessing economic impact.

- 6.1 The Government are also considering changes to the type of business activities that will require a licence in the future. This will likely reduce the number of businesses requiring a licence and therefore impact on the potential for levy income and fee levels.
- 6.2 In determining the desirability of introducing the levy members should consider:
- The costs of policing for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am
 - The costs of other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am
 - The current crime and disorder data and trends
 - The current economic climate and it's impact on the trade
 - The current impact of budget reductions within the public sector
 - The potential benefits from additional work on crime and disorder reduction or prevention activities
 - The impact of our changes to the licensing system

7.0 Options

The Council has an option to introduce, defer or reject the introduction of the levy based on the information obtained from the consultation and this report.

7.1 Introduce

It is clear that the Police and other agencies spend considerable resources in supporting the night time economy and dealing with its negative impacts. The need for the levy has therefore been made. This has to be balanced, however, with the overall desirability of the levy. Clearly the impact of the trade needs to be understood and considered. Given the current uncertainty regarding the level of future fees and other licensing changes this impact cannot be properly assessed.

7.2 Defer

The fees consultation closes in April 2014 and it is hoped that the Home office will move forward quickly to clarify the format of the future fees system. As soon as more definite proposals are known the question about the levy in Plymouth can be further assessed. This is likely to require local consultation to ensure the feedback through our last consultation is still valid.

Any deferment period should be used to engage with the trade to introduce voluntary projects or schemes to understand the level improvements achievable without the need for the levy.

7.3 Reject

At the moment the need for the levy has been supported but certain aspects of the impact cannot be accurately assessed. This assessment will be possible over the next 6-9 months and so a complete rejection is not appropriate at this time.

8.0 CONCLUSION

The reduction and prevention of crime and disorder due to alcohol costs the police and other agencies a considerable amount. Although crime and disorder is reducing a significant proportion of some crimes, particularly violent crime, occurs in the night time economy.

- 8.1 The levy is designed to seek a contribution from businesses that sell alcohol late at night. Members should consider the desirability of introducing the levy.
- 8.2 The need for the levy has so far been demonstrated but uncertainties regarding changes to the fees and licensing system will have an impact on the desirability of the levy. These changes need to be understood and assessed before a final decision can be made.