

Research Briefing

26 October 2023

By John Woodhouse

Alcohol licensing: the late night levy



Summary

- 1 What is the late night levy?
- 2 Changes to the levy (July 2023)

Image Credits

Bar-counter-beer-taps by Zarya Maxim. Licensed by Adobe Stock id #216611140 – no copyright required.

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Sources and subscriptions for MPs and staff

We try to use sources in our research that everyone can access, but sometimes only information that exists behind a paywall or via a subscription is available. We provide access to many online subscriptions to MPs and parliamentary staff, please contact hoclibraryonline@parliament.uk or visit commonslibrary.parliament.uk/resources for more information.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

Summary	4
1 What is the late night levy?	5
1.1 Deciding on a levy	6
1.2 Reductions	6
1.3 Exemptions	7
2 Changes to the levy (July 2023)	8
2.1 Background to the changes	8

Summary

Licensing authorities have the power to introduce a “late night levy” on premises licensed to sell alcohol in the authority’s area. The levy applies during a “late night supply period” (ie between midnight and 6am). The authority chooses the length of time within this period that the levy will apply.

The net revenue raised goes towards the costs of policing the late-night economy. This must be split between the licensing authority and the relevant police and crime commissioner (PCC). At least 70% of the net revenue must be given to the police. The licensing authority can retain up to 30% to fund the services it provides to manage the night-time economy.

The levy only applies in England and Wales.

Changes to the levy (July 2023)

[Section 142](#) and [Schedule 18 of the Policing and Crime Act 2017](#) reformed the levy by:

- allowing licensing authorities to target specific geographical locations.
- extending the levy to include late night refreshment outlets.
- enabling PCCs to request the licensing authority to propose introducing a levy.
- requiring licensing authorities to publish information about how funds raised by the levy are spent.

The changes came into force from 13 July 2023. The Government [has said they “will make the levy more flexible for local areas, fairer to business and more transparent.”](#)

The Home Office has published [amended guidance on the levy](#) (July 2023).

1

What is the late night levy?

Under [Part 2 Chapter 2 of the Police Reform and Social Responsibility Act 2011](#), licensing authorities have the power to introduce a “late night levy” on premises licensed to sell alcohol in the authority’s area. The levy applies during a “late night supply period” (ie between midnight and 6am). The authority chooses the length of time within this period that the levy will apply.

The amount of the levy is prescribed nationally and is based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises rateable value.¹

The net revenue raised goes towards the costs of policing the late-night economy. This must be split between the licensing authority and the relevant police and crime commissioner (PCC). At least 70% of the net revenue must be given to the police.²

The licensing authority can retain up to 30% to fund the services it provides to manage the night-time economy. These must be in connection with the supply of alcohol during the late-night supply period and related to arrangements for:

- the reduction of crime and disorder.
- the promotion of public safety.
- the reduction or prevention of public nuisance.
- the cleaning of any relevant highway or relevant land in the local authority area.³

The licensing authority can choose to amend the portion of net revenue given to the PCC in future years. This decision must be subject to consultation in the same way as a decision to introduce the levy.

¹ Regulations 4 & 5 and Schedules 1 and 2 of the [Late Night Levy \(Application and Administration\) Regulations 2012](#) (SI 2012/2730)

² Regulation 8 of the [Late Night Levy \(Application and Administration\) Regulations 2012](#) (SI 2012/2730)

³ As above

1.1 Deciding on a levy

A licensing authority should discuss the need for a levy with the chief officer of police and relevant PCC. The authority will then decide whether to consult on a levy. The Home Office guidance explains:

1.11. The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are 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.

1.12. The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. PCC's can also formally request that a licensing authority consult on introducing a late night levy. This can be done in writing to the local authority stating their rationale for a levy to be consulted on. The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.

1.13. The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.

1.14. The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve...⁴

1.2 Reductions

Licensing authorities have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme, or in receipt of small business rate relief and have a rateable value of less than £12,000.⁵

⁴ Home Office, [Amended guidance on the late night levy](#), July 2023, paras 1.11-1.14 (accessed 26 October 2023)

⁵ Regulation 5 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); and Home Office, [Amended guidance on the late night levy](#) (PDF), paras 1.34-1.38

1.3

Exemptions

The levy applies to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority's area. Any such holder is liable to pay the levy, regardless of whether the holder's premises are operating during the period. However, licensing authorities may consider that there are some types of premises that should not contribute towards the levy. The Home Office guidance explains that this is a local decision – a licensing authority should make its decision based on its knowledge of the night-time economy in the area.⁶ Licensing authorities cannot choose a category of premises for an exemption from the levy if it is not prescribed in regulations. And licensing authorities cannot exempt specific premises from the requirement to pay the levy.⁷ The following categories of premises and schemes can be offered an exemption from paying:

- premises with overnight accommodation.
- theatres and cinemas.
- bingo halls.
- community amateur sports clubs.
- community premises.
- country village pubs.
- Business Improvement Districts.⁸

⁶ Home Office, [Amended guidance on the late night levy](#), para 1.23

⁷ As above, para 1.24

⁸ Regulation 4 of the [Late Night Levy \(Expenses, Exemptions and Reductions\) Regulations 2012](#) (SI 2012/2550); see also Home Office, [Amended guidance on the late night levy](#), paras 1.25-1.33

2

Changes to the levy (July 2023)

In its March 2016 [Modern Crime Prevention Strategy](#) (PDF), the then Government said the levy would be improved by “making it more flexible for local areas, fairer to business and more transparent”.⁹

[Section 142](#) and [Schedule 18 of the Policing and Crime Act 2017](#) reformed the levy by:

- allowing licensing authorities to target specific geographical locations.
- extending the levy to include late night refreshment outlets.
- enabling PCCs to request the licensing authority to propose introducing a levy.
- requiring licensing authorities to publish information about how funds raised by the levy are spent.

When introducing the changes, the Government said that licensing authorities, the police, and the licensed trade felt that the levy in its then form was “inflexible”.¹⁰

The reforms to the levy did not come into force until 13 July 2023. In a Written Ministerial Statement on that date, Chris Philp, Minister of State at the Home Office, [said the changes would “make the levy more flexible for local areas, fairer to business and more transparent”](#).¹¹ The Home Office published [amended guidance on the levy](#). The following section of this briefing gives an overview of the time taken to implement the changes.

2.1

Background to the changes

Lords Committee on the Licensing Act report (April 2017)

While the Policing and Crime Bill 2016/17 was before Parliament, a House of Lords Committee was scrutinising the Licensing Act 2003. The Government’s

⁹ Home Office, [Modern Crime Prevention Strategy](#) (PDF), March 2016, p36 (accessed 26 October 2023)

¹⁰ Baroness Chisholm of Owlpen at [HL Deb 9 November 2016 c1191; Further background is available in a Home Office Impact Assessment \(PDF\)\(September 2016\)](#).

¹¹ Home Office, [Late night levy commencement of 2017 changes](#), Written Ministerial Statement [HCWS935], 13 July 2023

amendments on the levy were moved¹² before the Committee's report was published on 4 April 2017. In its report, the Committee said it was "disappointed" that the Government had proposed changes to the levy before it had published its report.¹³ However, the Chair of the Committee had received assurances from Ministers that the changes would not be implemented until the Government had considered the report.¹⁴

The Committee concluded that, on balance, the levy in its current form had "failed to achieve its objectives and should be abolished".¹⁵ It recognised, however, that the Policing and Crime Act 2017 might "stand some chance of successfully reforming the levy".¹⁶ If the Government decided to retain the levy, the Committee recommended that the current 70/30 split of levy revenue should be abolished and that funds should be divided equally between the police and licensing authorities.¹⁷

Government response (November 2017)

The Government's response to the Committee's report was published in November 2017. On the levy, the Government said:

- it would commence the provisions of the 2017 Act. However, it would not commence the measure allowing licensing authorities to charge the levy to late night refreshment premises until it had consulted on the appropriate level of the charge.
- it had no intention to introduce a sunset clause to repeal the legislation after two years. The legislation would be subject to a post-legislative review five years after Royal Assent.
- the 70/30 split of levy income was appropriate and there were no plans to change it.¹⁸

Lords Liaison Committee report (July 2022)

In July 2022, the House of Lords Liaison Committee published a follow-up report scrutinising the 2003 Act.¹⁹

Witnesses from the industry told the Committee that the levy should be repealed, with some claiming it was "an additional tax on doing business".

¹² [HL Deb 9 November 2016 cc1191-2](#)

¹³ House of Lords Select Committee on the Licensing Act 2003, [The Licensing Act 2003: post-legislative scrutiny](#) (PDF), HL Paper 146, April 2017, para 502

¹⁴ As above, para 501

¹⁵ As above, para 502

¹⁶ As above, para 502

¹⁷ As above, para 503

¹⁸ Home Office, [Government response to the report from the House of Lords Select Committee report on the Licensing Act 2003](#) (PDF), HL Paper 146 2016-17, Cm 9471, November 2017, pp36-7 (accessed 26 October 2023)

¹⁹ House of Lords Liaison Committee, [The Licensing Act 2003: post-legislative scrutiny Follow-up report](#) (PDF), HL Paper 39, July 2022 (accessed 26 October 2023)

The COVID-19 pandemic had demonstrated the lack of flexibility in the levy, as despite businesses being closed for a significant proportion of the previous two years, the levy could not be paused or dropped.²⁰

Kit Malthouse, then Minister of State at the Home Office, told the Committee that the levy had been “a good and useful tool”. It had funded:

...additional police officers and community protection officers, and projects designed to benefit those working and socialising in the night time economy, including a Club Host project aiming to reduce sexual harassment within clubs, first aid training for staff of licensed premises, defibrillators for town centres, taxi marshals and street cleaning.²¹

The Minister did, however, acknowledge that the levy had “not been as popular with local authorities as originally envisaged” – hence the reason for the introduction of the changes under the Policing and Crime Act 2017.²²

The Committee recommended:

- that if the Government intended to retain the levy, the amendments made under the Policing and Crime Act 2017 needed to be consulted on as a matter of urgency and brought into force.²³
- within three years of the provisions being implemented, the Government should consult on the impact of the amended levy. If there was not a demonstrable improvement of the impact and uptake of the levy, it should be abolished.²⁴

Government response (November 2022)

In its November 2022 response to the Committee’s report, the Government said it intended to deliver its commitment to consult on the level of the levy to be applied to late night refreshment premises “at the earliest opportunity”.²⁵

The Government said that data on local areas’ use of the levy was collated via the Alcohol and Late Night Refreshment Statistical Bulletin. The Government did not intend to carry out a formal consultation on the impact of the levy.²⁶

²⁰ As above, para 97

²¹ As above, para 99

²² As above, para 100

²³ As above, para 101

²⁴ As above, para 102

²⁵ Home Office, [Government Response to the Post-Legislative Scrutiny of the Licensing Act 2003 – Follow Up Report](#) (PDF), November 2022, p15 (accessed 26 October 2023)

²⁶ As above, p15

Government statement on the reforms coming into force (13 July 2023)

In a Written Ministerial Statement of 13 July 2023, [Chris Philp announced that the Policing and Crime Act's changes to the levy would come into force from that date:](#)

[The Act's] changes were not commenced at this time following recommendations from the House of Lords Select Committee which carried out post-legislative scrutiny of the Licensing Act 2003. It requested that the Government delay the commencement of the 2017 Act provisions until it had considered the Committee's recommendations. As a result of these recommendations, the Government committed to consult on the application of the levy to LNR providers prior to commencing the changes that the 2017 Act would make. The consultation was delayed largely due to the pandemic but is now complete. The outcome of the public consultation was to give local authorities the option to offer a 30% reduction to late night refreshment providers that qualify for small business rate relief. This reduction is already available in relation to premises that supply alcohol.

Now that the consultation is complete, we are commencing the wider changes made via the Policing and Crime Act 2017 which will come into effect as of today. These include permitting PCCs the right to request that a licensing authority formally propose a levy and will require licensing authorities to publish information about how the revenue raised from the levy is spent. These changes will make the levy more flexible for local areas, fairer to business and more transparent. The levy will be an optional tool that Local authorities can utilise to address alcohol related crime and disorder.²⁷

The Home Office has published [amended guidance on the levy](#) (13 July 2023).

²⁷ Home Office, [Late night levy commencement of 2017 changes](#), Written Ministerial Statement [HCWS935], 13 July 2023

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)