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## EARLY MORNING RESTRICTION ORDER

### 1.0 Matter for consideration

1.1 The Committee to consider a proposal to introduce an Early Morning Restriction Order.

### 2.0 Recommendation(s)

2.1 The Committee resolves to recommend to the Executive to recommend Council that the proposal to make an Early Morning Restriction Order to prohibit the sale of alcohol between the hours of 03:00 and 06:00 Monday to Sunday in respect of the proposed new town centre saturation zone be advertised in accordance with Section 172B (1) (a) of the Licensing Act 2003.

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### 3.0 Information

3.1 An Early Morning Restriction Order (EMRO) is designed to address recurring problems such as high levels of crime and disorder and anti-social behaviour which is alcohol-related and where the behaviour is not directly attributable to specific premises. The concept of the EMRO was originally introduced by the Crime and Security Act 2010 where the licensing authority was to have the power to restrict the sale of alcohol between 03:00 and 06:00 hours. This power was never commenced.

3.2 The Police Reform and Social Responsibility Act 2011 amended the EMRO powers to permit a licensing authority to restrict the sale of alcohol between midnight and 06:00 hours. Licensing Authorities have had the power to make such an order since 31<sup>st</sup> October 2012.

3.3 An EMRO may be made by a licensing authority if it considers it appropriate to do so for the promotion of the licensing objectives. The provisions can be tailored to deal with the specific problems being experienced; it does not have to apply to the whole of the authority's area 365 days a year. Any proposed order must state

- The area to be covered by the order
- The days of operation (the whole week or specified days)
- The hours of operation
- The period of operation (the whole year or specific times of the year although an EMRO cannot apply on New Year's Eve into New Year's Day)

3.4 There are two prescribed exceptions:

1. Premises which are a hotel or comparable premises at which the supply of alcohol between midnight and 6 am on any day may only be made to a person –
  - a. Who is staying at the premises, and
  - b. For consumption only in the room at which the person is staying on the premises
2. Premises which are authorised to supply alcohol for consumption on the premises between midnight and 6 am on 1<sup>st</sup> January in every year (but are not so authorised at those times on any other day in any year)

- 3.5** The process for considering an order is specified in Section 172B Licensing Act 2003 and the Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012. The proposed EMRO must be advertised in the local newspaper and on the authority's website. Details of the proposal must also be sent to all people likely to be affected and the responsible authorities. Notices must also be displayed in the area to be covered by the order.
- 3.6** Relevant representations for or against making the order may be made at any time during a period of 42 days starting on the day after the day the proposal is first advertised. A representation is relevant if
- It is about the making of an EMRO on the promotion of the licensing objectives,
  - It is made in writing in the prescribed form and manner,
  - It is received within the deadline, and
  - If made by a person other than a responsible authority, if it is not frivolous or vexatious.
- 3.7** Where relevant representations are received, the licensing authority must hold a hearing to consider them. This hearing must be commenced within 30 days of the end of the consultation period. The decision must be made no later than 10 working days after the end of the hearing. Whilst the final decision lies with full Council, the hearing may take place before the licensing committee.
- 3.8** Following the hearing the authority has three options
- To decide that the proposed EMRO is appropriate for the promotion of the licensing objectives;
  - To decide that the proposed EMRO is not appropriate and that the process should end; or
  - To decide that the proposed EMRO should be modified. The process should start again based on the modified terms.
- 3.9** The Secretary of State's guidance issued under section 182 Licensing Act 2003 states that "the licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives". It goes on to advise that the authority should consider evidence from partners including responsible authorities and local Community Safety Partnerships alongside its own evidence.
- 3.10** Lancashire Constabulary has produced a report to support the creation of an EMRO which contains police and ambulance data. The report is attached at Appendix A. The report highlights the cost of alcohol related crime and disorder and the impact that late night drinking is having on the Police. When all services are suffering from diminishing resources, resources are having to be taken from the rest of the town to deal with the impact of late night drinking in the area. Members may feel that this report is sufficient to justify the EMRO proposal.
- 3.11** The proposal is that an EMRO is created covering the main streets in Blackpool Town Centre. This area will form the new town centre saturation area if the changes to the Statement of Licensing Policy are approved. The areas affected are (all or part of):
- Queen Street/Queen Square
  - Springfield Road
  - Promenade (between New Bonny Street & Banks Street)
  - Bank Hey Street
  - Market Street
  - Dickson Road

- Talbot Road
- West Street
- Corporation Street
- Abingdon Street
- New Bonny Street
- The Strand

Officers are of the opinion that the EMRO should restrict the sale of alcohol 03:00 to 06:00 hours daily through out the year. Currently 34 premises have the ability to sell alcohol after 03:00 hours.

- 3.12** There are a number of risks associated with the adoption of an EMRO:
- Premises closure – some venues who rely on the post 3am trade may become financially un-viable resulting in closure and associated job losses
  - Displacement – potential customers may chose to travel out of town to areas with later opening hours, or groups from out of town may choose an alternative venue for their weekend away
  - An EMRO prevents the sale of alcohol beyond a certain time, but it does not apply to other licensable activities. Premises could continue to offer other licensable activities such as regulated entertainment and late night refreshment until the closing time on its licence.
- 3.13** There are also potential benefits:
- Customers may choose to come to the town centre earlier rather than drinking at home (pre-loading).
  - People may return home earlier reducing noise nuisance as people either walk home or go home by taxi
  - Police and other emergency service resources would be freed up benefitting the whole of Blackpool.

- 3.14** If consultation is authorised today the timetable for consideration of the EMRO will be as follows:

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| 10 <sup>th</sup> April 2013                     | Proposal to make an Early Morning Alcohol Restriction Order will be advertised |
| 22 <sup>nd</sup> May 2013                       | Last date for representations about the making of an order                     |
| 12 <sup>th</sup> and 13 <sup>th</sup> June 2013 | Hearing before Licensing Committee to consider representations                 |
| 26 <sup>th</sup> June 2013                      | Council meeting to consider the making of an order                             |
| 2 <sup>nd</sup> August 2013                     | The earliest date that the order if made could come into force.                |

#### **4.0 Financial considerations**

- 4.1 There will be a financial cost of advertising the proposal to make an order. This will be met from the existing licensing budget.

#### **5.0 Legal considerations**

- 5.1 The decision to make an Early Morning Alcohol Restriction Order is potentially challengeable by way of Judicial Review

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**Relevant officer:**

Tim Coglan, Service Manager Public Protection  
Tel: (01253) 478376, e-mail [tim.coglan@blackpool.gov.uk](mailto:tim.coglan@blackpool.gov.uk)

**Appendices attached:**

Appendix 5a- Submission by Lancashire Constabulary

**Background papers:**

None

**Websites and e-mail links for further information:**

None

**Glossary:**

None