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## Early Morning Alcohol 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 To advertise 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 in accordance with Section 172B (1) (a) of the Licensing Act 2003.
- 2.2 Subject to 2.1 above, to consider any representations arising from the advertising of the proposed order in accordance with the timetable referred to in paragraph 3.14.

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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 be dealt with by 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 consultation 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 4a. 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 and Banks Street)
  - Bank Hey Street

- Market Street
- Dickson Road
- Talbot Road
- West Street
- Corporation Street
- Abingdon Street
- The Strand

A map of the area can be found at Appendix 4b.

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 24 premises have the ability to sell alcohol after 03:00 hours. A schedule of the premises affected which details the times they are permitted to sell alcohol can be found at Appendix 4c.

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 (subject to approval of dates for Council meeting):

5 <sup>th</sup> June 2013	Proposal to make an Early Morning Alcohol Restriction Order will be advertised
25 <sup>th</sup> July 2013	Last date for representations about the making of an order
4/5 September 2013	Hearing of Licensing Committee to consider representations
9 <sup>th</sup> September 2013	Executive meeting to obtain its views
18 <sup>th</sup> September 2013	Council meeting to consider the making of an order

3.15 At its meeting in March 2013, the Licensing Committee deferred consideration of this item to allow the trade the opportunity to come forward with detailed proposals that if implemented would avoid the need for an EMRO. The Committee also requested further information on the venues that sold alcohol after 03:00 hours.

3.16 Letters have been sent out to all premises in the proposed area for the EMRO asking whether they actually open after 03:00hours. Responses received at the time of writing

the report are attached at Appendix 4d. The Committee will be updated verbally at the meeting if further responses are received.

- 3.17 Licence holders have also been asked to provide information on the number of customers present in venues from midnight onwards. At the request of the trade, this information has been compiled in a manner which does not disclose the identity of the premises providing it. A table providing information on the number of customers in venues broken down by time can be found at Appendix 4e – figures have been provided from midnight on Friday and Saturdays.
- 3.18 The following will be present at the meeting to address the Committee and answer questions:
- John Donnellon      Blackpool Council
  - Chief Inspector Mills   Lancashire Constabulary
  - Trade Representatives

#### **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 challengeable by way of Judicial Review

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#### **Relevant officer:**

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#### **Appendices attached:**

Appendix 4a Report from Lancashire Constabulary  
Appendix 4b Map of area affected.  
Appendix 4c List of premises with permission to sell alcohol after 03:00 hours.  
Appendix 4d Responses to questionnaire.  
Appendix 4e Table showing number of customers in venues from midnight.

#### **Background papers:**

None

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

None

#### **Glossary:**

None