
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 To consider whether it is appropriate for the promotion of the Licensing Objectives to make an Early Morning Restriction Order prohibiting the sale of alcohol between the hours of 03:00 and 06:00 Monday to Sunday in respect of the area detailed in the attached map at Appendix 4a, and if necessary to recommend to Council accordingly.

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 31st October 2012.
- 3.3 There are two prescribed exceptions:
- 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 who is staying at the premises, and for consumption only in the room at which the person is staying on the premises.
 - Premises which are authorised to supply alcohol for consumption on the premises between midnight and 6 am on 1st January in every year (but are not so authorised at those times on any other day in any year).
- 3.4 At its meeting on 15th May 2013, the Licensing Committee resolved to consult on the creation of an EMRO covering the area detailed in Appendix 4a. The order would prohibit the sale of alcohol in the designated area between 03.00 – 06.00 hours a day on every day except Christmas Eve and New Years Eve. There are 24 premises in the area currently authorised to sell alcohol after 03.00 hours, although not all of these premises regularly trade after that time. The list of premises can be found at Appendix 4b.

- 3.5 The process for considering an order is specified in Section 172B of the 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 The consultation process began on 13th June 2013 and the last date for representations was 25th July 2013:
- A notice was published in Blackpool Gazette dated 13th June 2013.
 - Notice of the proposal, the consultation document and map of the area affected was advertised on the Council's website from 13th June 2013.
 - Details of the proposal were sent to all holders of Premises Licences and Club Premises Certificates within the borough of Blackpool as well as to anyone who has served a Temporary Event Notice within the town centre area.
 - Notices were sent to Fylde and Wyre Borough Councils and the responsible authorities.
 - 50 public notices were displayed in the affected area.
- 3.7 Representations about the validity of the consultation will be made at the start of the hearing.
- 3.8 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.
- 3.9 A total of 71 representations were received. The representations received together with supporting evidence have been circulated to Members under separate cover.
- 3.10 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 hearing was originally scheduled to take place on 4th September 2013. This was adjourned as the notice of hearing had not been sent out and the original listing of two days was deemed to be insufficient.
- 3.11 The Secretary of State's guidance issued under section 182 of the Licensing Act 2003 states that "the Licensing Authority should be satisfied that it has sufficient evidence to demonstrate that making an EMRO would be 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.
- 3.12 The guidance goes on to say at paragraph 16.9 that an EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The Licensing Authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. When determining whether a step is appropriate to promote the Licensing Objectives, a Licensing Authority is not required to decide that no lesser step will achieve the aim. They should, however consider

whether taking that step is reasonable, justified and proportionate.

- 3.13 Other measures that could be taken instead of making an EMRO are introducing a cumulative impact policy, reviewing licences of specific problem premises, encouraging the creation of business-led best practice schemes in the area, using other mechanisms described in paragraph 13.39 of the guidance. These are discussed in turn:
- 3.14 Cumulative Impact – a town centre cumulative impact policy for on-licensed premises was introduced in January 2007. Originally this covered the whole town centre area. The area was amended in June 2013 to make two separate areas, the first covering the area of the proposed EMRO (with the addition of the Coral Island Complex), the second smaller area covering the premises previously licensed as the Syndicate.
- 3.15 Reviewing licences – 12 premises licensed for the sale of alcohol have had their licences reviewed since 2005. One review in 2006 resulted in a reduction of hours, and one review in 2013 resulted in the revocation of the licence.
- 3.16 Business-led best practice schemes – a Best Bar None scheme was operated in Blackpool for a number of years around 2006 but the scheme has not been in operation since funding was withdrawn in 2010. The trade in Blackpool support the re-introduction of this scheme or similar.
- 3.17 Other controls described in paragraph 13.39 of the guidance include planning control; positive measures to create a safe and clean town centre environment in partnership with local business; the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols; powers to make a designated public places order; confiscation of alcohol from people in designated areas; police enforcement of the general law concerning disorder and anti-social behaviour; prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale); use of police powers to close licensed premises for up to 24 hours; the power to review individual licences.
- 3.18 It will be for Members to determine on the basis of the representations submitted whether it is appropriate for the promotion of the licensing objectives to make an EMRO.
- 3.19 Following the hearing the Licensing Committee has three options:
- To decide that the proposed EMRO is appropriate for the promotion of the licensing objectives and recommend the Council accordingly;
 - 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.

4.0 Financial considerations

- 4.1 If an order is made, there will be the cost of advertising such order. There are also costs that will be incurred if the decision is challenged by way of Judicial Review.

5.0 Legal considerations

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

Relevant officer:

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Appendices attached:

Appendix 4a Map of area affected

Appendix 4b List of premises with permission to sell alcohol after 03:00 hours.

Background papers:

None

Websites and e-mail links for further information:

None

Glossary:

None