

*PART A

Report to: Licensing Committee
Date of meeting: 19 March 2012
Report of: Head of Environmental Services
Title: Early morning restriction orders and late night levies

1.0 **SUMMARY**

- 1.1 The Government intend to introduce later this year two measures to deal with the problems of late-night drinking. These two instruments – early morning restriction orders (EMROs) and late night levies (LNLs) – are part of a package of measures introduced under the Police Reform and Social Responsibility Act 2011.
- 1.2 In January this year the Government published a consultation document (available at <http://www.homeoffice.gov.uk/publications/about-us/consultations/late-night-drinking/>) on how EMROs and LNLs will work in practice and Members are asked for their comments.

2.0 **RECOMMENDATIONS**

- 2.1 That the response to the Government's consultation paper at appendix 1 is endorsed, with any further amendments the Committee thinks fit.
- 2.2 Officers submit a further report to the Committee in due course on the merits of implementing an EMRO or LNL in Watford.

Contact Officer:

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Report approved by: Head of Environmental Services, Alan Gough.

3.0 **DETAILED PROPOSAL**

3.1 As part of the Coalition Government Agreement to “rebalance” the Licensing Act 2003, Parliament has enacted a number of measures to tackle alcohol-related crime through the Police Reform and Social Responsibility Act 2011.

3.2 The Government are currently consulting on how to introduce two specific measures, which are detailed in the following paragraphs, with a draft response for Members to consider being set out at appendix 1.

3.3 Early Morning Restriction Orders

EMROs can be introduced by the licensing authority for any part of the Borough where it is considered that restricting the sale of alcohol between 12 midnight and 6 am is appropriate to promote the four objectives in the Licensing Act 2003. It can apply either every day or for certain days, and for an unlimited or time-limited period.

3.4 Prior to introducing an EMRO, the authority must consult directly with responsible authorities and licensed premises, and more widely with residents and others likely to be affected. Any representations must be made within a 28-day period and be considered by the Licensing Committee; the EMRO itself must be endorsed by the full Council.

3.5 Once introduced, the EMRO will make it an offence to sell alcohol during the times specified in the order, whether under a premises licence, club premises certificate or temporary event notice (TEN). The order will apply to existing permissions, so for example all town centre premises that currently trade until 2 am could have their alcohol sales curtailed at 1 am on all or specific nights of the week.

3.6 The Government is proposing that there could be some exemptions from an EMRO:

(1) for all premises between midnight on 31 December and 6 am on 1 January, to allow for New Year’s Eve celebrations;

(2) in premises with overnight accommodation, so hotel guests will be able to continue enjoying 24-hour alcohol sales although non-residents will not be able to be served whilst the EMRO is in force;

(3) theatres and cinemas between midnight and 6 am;

(4) community premises that have successfully applied to remove the mandatory requirement to have a designated premises supervisor (and there are none of those in Watford);

(5) casinos and bingo halls with a membership scheme (and there are none of those in Watford).

3.7 Officers are not commenting at this time on the merits of introducing an EMRO in Watford, but will bring a further report later in the year following initial discussions with relevant parties.

3.8 Late Night Levies

Late night levies are based broadly on the “polluter pays” principle. If introduced after a stringent consultation process (similar to that for EMROs) that includes the new Policing and Crime Commissioners (PCC) and police, the LNL is applied to all on- and off-trade premises in the Borough that trade during a period specified by the licensing authority between midnight and 6 am, although unlike EMROs it will not apply to TENS.

3.9 After deductions for expenses in collecting the levy, at least 70 per cent of the levy must be paid to the PCC with the licensing authority able to decide on what other services it wishes to fund with the remainder.

3.10 It would take at least nine months to introduce a LNL. During this time premises can apply for a minor variation to their licence free of charge to reduce their hours to avoid being caught by the LNL hours. The “late night levy year” then begins, after which failure to pay the LNL can lead to suspension of the premises licence and the debt can be recovered through the civil courts. Premises pay for the LNL at the same time as their annual licence fees, which in the majority of cases would be each November.

3.11 The licensing authority has to repeat the same consultation process each year if it wishes to amend or end the scheme, but not if it simply wishes to continue the levy. The levy proceeds must be paid to the PCC within four months of the end of the “late night levy year”, which can therefore be over a year since the original decision was made to introduce it. Officers calculate the earliest that proceeds from the LNL would therefore be realised could be October 2013.

3.12 In a similar fashion to EMROs, it is proposed that some classes of premises can be exempt from paying the levy if the licensing authority think its appropriate they should be exempt:

(1) premises with overnight accommodation;

(2) restaurants;

(3) theatres and cinemas;

(4) casinos and bingo halls with membership schemes in operation between midnight and 6 am;

(5) community amateur sports clubs;

(6) community premises that have successfully applied to remove the mandatory requirement to have a designated premises supervisor;

(7) country village pubs that qualify for rural rate relief (and there are none within Watford);

(8) business that are part of a Business Improvement District;

(9) private members’ clubs operating under club premises certificates;

(10) premises which trade on New Year's Eve – imposing the levy on New Year's Eve may unfairly impact on some premises whose only late-night authorisation is for that 31 December.

- 3.13 The Government is proposing that businesses which benefit from Small Business Rate Relief (for one example small local pubs which only occupy one property and below a certain rateable level) could receive a reduction from the LNL.
- 3.14 The Government wishes to promote best practice schemes such as Best Bar None, Pubwatch; Community Alcohol Partnerships; Business Improvement Districts; or other locally established schemes established to tackle late-night problems. Members of those schemes could benefit from a reduction in the LNL.
- 3.15 Finally, the consultation paper asks whether there should be any restrictions on the types of services that licensing authorities could fund with their maximum 30% of the LNL – it is intended it should fund services that tackle alcohol-related crime and disorder such as taxi marshalling.
- 3.16 This report does not deal with the specific merits of the LNL for Watford and officers will bring a further report later in the year on this and the EMROs.

4.0 **IMPLICATIONS**

4.1 **Financial**

- 4.1.1 The Head of Strategic Finance comments that there are no financial implications arising from this report. Any financial issues will be discussed in a further report once the relevant regulations have been implemented.

4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 The Head of Legal and Property Services comments that there are no legal implications arising from this report and any financial issues will be discussed in a further report once the relevant regulations have been brought into force.

4.3 **Equalities**

- 4.3.1 Not applicable.

4.4 **Potential Risks**

- 4.4.1 None
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Appendices

- Late night levies and EMROs – appendix 1 response.

Background Papers

Dealing with the Problems of Late Night Drinking – A Consultation on Secondary Legislation for the Late Night Levy and Early Morning Restriction Orders (Home Office, January 2012).

File Reference

- *None*