

BRECKLAND DISTRICT COUNCIL

Report of: Rob Walker - Assistant Director of Commissioning

To: Licensing Committee

Author: Fiona Inston – Licensing and Business Support Manager

Subject: Early Morning Alcohol Restriction Orders

Purpose: To advise the Committee on the power to introduce an Early Morning Alcohol Restriction Order

Recommendation(s):

This report is for information only.

1.0 BACKGROUND

1.1 An Early Morning Alcohol Restriction Order (EMRO) is a power conferred on Licensing Authorities by the Licensing Act 2003 and came into effect on 31 October 2012.

1.2 The change enables Licensing Authorities if they choose to exercise this power to introduce an EMRO to restrict sales of alcohol in the whole or a part of the district for any specified period between 12 midnight and 6am, if considered appropriate for the promotion of the licensing objectives.

1.3 EMRO's provide a control to address recurring problems in an area such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

1.4 An EMRO:

- Applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
- Applies for a limited or unlimited period (for example an EMRO could be introduced for a few weeks to apply to a specific event);
- Applies to the whole or any part of the Licensing Authority's area;
- Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
- Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars and /or room service ; and
- Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

- 1.5 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. Guidance issued under Section 182 by the Home Office however states that the Licensing Authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO, such as introducing a Cumulative Impact Area, reviewing licences of specific problem premises and/or encouraging the creation of business led best practice schemes in the area.
- 1.6 The Licensing Authority is required to consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.

2.0 ISSUES

- 2.1 The introduction of an EMRO could be requested by the public or the Police and Crime Commissioner, but it is for the Licensing Authority to decide whether or not to introduce an EMRO.
- 2.2 The Licensing Authority must be satisfied that there is sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. Evidence should be sought from partners, including responsible authorities and local Community Safety Partnerships, along with its own evidence to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

3.0 OPTIONS

- 3.1 The Licensing Committee is requested to consider the contents of this report and be fully aware of the decision making process and criteria as necessary when looking at the option of whether to introduce an Early Morning Alcohol Restriction Order.

4.0 REASONS FOR RECOMMENDATION

- 4.1 It is essential that members of the Licensing Committee are aware of the new powers for Licensing Authorities within the Licensing Act 2003 extended by the Police Reform and Social Responsibility Act 2011 to decide whether to consider introducing an Early Morning Alcohol Restriction Order.

5.0 EXPECTED BENEFITS

The benefit is to provide members of the Committee of the Licensing Authority an update on significant legislative changes and the powers conferred to the Licensing Authority which may be relevant in further policy work or committee hearings associated with the Licensing Act 2003.

6.0 IMPLICATIONS

6.1 Legal

- 6.1.1 A decision to introduce an Early Morning Alcohol Restriction Order made by the Licensing Authority may be subject to legal challenge.

6.2 Risks

6.2.1 None

6.3 **Financial**

6.3.1 The Licensing Authority will need to decide whether or not it believes it has a viable proposal to introduce an EMRO before incurring the costs associated with the formal consultation process. Costs will be incurred through consultation, advertising, administration, monitoring and enforcement.

6.4 **Timescales**

6.4.1 Early Morning Alcohol Restriction Orders came into effect on 31 October 2012.

6.4.2 A proposal for an EMRO must be advertised for at least 42 days.

6.5 **Equality and Diversity**

6.6.1 None

6.6 **Stakeholders/Consultation**

6.6.1 None

6.7 **Contracts**

6.7.1 None

6.8 **Section 17, Crime & Disorder Act 1998**

6.8.1 None

6.9 **Other**

6.9.1 An amendment to Breckland District Council's Statement of Licensing Policy to reflect these changes will be necessary.

7.0 **Wards/Communities Affected**

7.0.1 All

Background papers:-

Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/introduction

The Police Reform and Social Responsibility Act 2011 – Part 2 Licensing:
www.legislation.gov.uk/ukpga/2011/13/part/2/enacted

The Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012: <http://www.legislation.gov.uk/uksi/2012/2551/made>

Chapter 16 - Section 182 Guidance issued under the Licensing Act 2003:
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing/guidance-s182?view=Binary>

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Director/Officer who will be attending the Meeting

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Appendices attached to this report:

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