

Subject: **Early morning Restriction Orders and the Late Night Levy**

Report to : **Cllr Canver and The Regulatory Committee Members**

Report by: **Licensing Team Leader – Single Frontline Services.**

Date : **1st March 2012**

SUBJECT MATTER:

Later this year the government intends to introduce two measures to deal with the problems of late night drinking, early morning restriction orders (EMROs) and the late night levy ('the levy'). In January this year the Government published a consultation document (copy attached App 1) on how EMROs and the levy will work in practice. A draft response is attached at Appendix 2 and Members are asked to amend and comment, before being sent to The Cabinet Member for Environment for approval.

1. Background

1.1 The Regulatory Committee have been previously briefed on the amendments to the Licensing Act 2003 made by Part 11 of the police Reform and social Responsibility Act 2011. this Act introduces a number of measures to tackle alcohol-related crime.

1.2 The Government intends to introduce two measures to deal with the problems of late night drinking: early morning restriction orders (EMROs) and the late night levy ('the levy'). The Home Office have recently published a consultation document on how to introduce these two specific measures.

1.3 A draft response has been produced and members are asked to endorse or make any amendments as they wish. Officers are particularly interested to receive Members views on the following:

- The types of premises that the Governments proposing to exempt from EMROs and the levy; and
- Whether there should be any restrictions on the types of services that licensing authorities could fund with their maximum 30% of the levy.

1.4 The Licensing Committee is being asked for views before sending to the Cabinet Member.

1.5 This report does not consider the merits of implementing an EMRO or the late night levy. This has been looked at by CEMB and a further report will be done once the regulations are in force.

2. Early Morning Restriction Orders (EMROs)

2.1 EMROs can be introduced by the licensing authority for any part of the Borough where it is considered that restricting the sale of alcohol are needed in order to promote the licensing objectives.

The hours within which restrictions can be imposed are at any time between 12-midnight and 6am. It can apply either every day or to certain days and for an unlimited or time limited period. It would have the affect of banning the sale or supply of alcohol from the commencement time until such time up until 6am as specified in the Order.

2.2 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 representation 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. The borough has around 274 premises that will be affected by this proposal.

2.3 Once introduced, the EMRO will make it an offence to sell alcohol during the times specified In the order, whether under a premises license, club premises certificate or temporary event notice(TEN). The order will apply to existing licences, so all existing premises could have their alcohol sales curtailed on all or specific nights of the week.

2.4 The Government has put forward in the consultation that there should be exemptions for certain types of premises to not be subject to an EMRO. It has proposed that the following exemptions will apply to every EMRO:

- To all premises between midnight on 31st December and 6am on 1t January. To allow for New Years Eve celebrations;
- In premises with overnight accommodation, so hotel guest 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.
- Theatres and cinemas between midnight and 6am.
- Community premises that have successfully applied to remove the mandatory requirements to have a designated premises supervisor (there are none at present in Haringey, but this only extends to community centres and church halls that have the ability to sell alcohol on the premises)
- Casinos and bingo halls with a membership scheme between midnight and 6am.

3.0 Late Night Levy

3.1 The late night levy will allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. If introduced after a

stringent consultation process (similar to that for EMROs) that includes the new policing and crime Commissioners (PCC) and the local police, the levy 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 6am, although unlike EMROs it will not apply to TENs.

3.2 After deductions for expenses in collecting the levy at least 70% of the levy must be paid to the Commissioner of Metropolitan Police with the licensing authority able to decide on what other services it wishes to fund with the remainder.

3.3 In the consultation the Government has identified premises which licensing authorities may consider should not have to contribute towards late night policing costs through the levy. The levy will allow exemptions or reductions that they consider should apply in the area. It is proposed that the following types of businesses are available as exemptions for licensing authorities to adopt:

- Premises with overnight accommodation (this will not exempt hotels, etc that serve alcohol to members of the public who are not staying overnight).
- Restaurants
- Theatres and cinemas between midnight and 6am
Casing and bingo halls with membership schemes in operation between midnight and 6am.
- Community amateur sports club
- Community premises that have successfully applied to remove the mandatory requirement to have a designated premises supervisor.
- Country village pubs that qualify for rural rate relief
- Businesses that are part of a Business Improvement District
- Private Members Clubs operating under club premises certificates
- Premises which trade on New Years Eve

3.4 The government has also proposed that the businesses which benefit from Small Business Rate Relief (for example small local pubs which only occupy one property and below a certain rateable level) could receive a reduction from the levy.

3.5 The Government wish to promote best practice schemes such as Best Bar None. Pub watch; 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 levy.

3.6 The Secretary of State may also by Regulation prescribe the Procedure to be followed by the Licensing Authorities who wish to impose a levy in their area.

Appendix 1 – Home Office Consultation Document .

Appendix 1a – shows the process that a local Authority will need to go through to impose the levy.

Appendix 1b – is the additional process 1 year on, when the Local authority need to reconcile the costs and income and decide if they levy could be revoked or continued for another year.

Appendix 1c – This shows the process map for imposing an EMRO

Appendix 2 - Draft response to consultation questions. Response is due to be submitted to the Home Office by the 10th April 12.