

# Licensing and General Purposes Committee Special Meeting **AGENDA**

**DATE:** Tuesday 30 July 2013

**TIME:** 7.30 pm

**VENUE:** Committee Rooms 1 & 2,  
Harrow Civic Centre

## **MEMBERSHIP** (Quorum 4)

---

**Chairman:** Councillor Mano Dharmarajah

### **Councillors:**

Ramji Chauhan	Mrinal Choudhury	Vacancy	David Gawn
Susan Hall (VC)	Kairul Kareema		
Manji Kara	Marikar		
Amir Moshenson	Ajay Maru		
John Nickolay	Phillip O'Dell		
Anthony Seymour	Varsha Parmar		
	Krishna Suresh		

### **Reserve Members:**

---

1. Lynda Seymour	1. Bill Stephenson	1. (Vacancy)	1. Vacancy
2. Mrs Camilla Bath	2. Sachin Shah		
3. Stephen Wright	3. Ann Gate		
4. Kam Chana	4. Sue Anderson		
5. Yogesh Teli	5. Bill Phillips		
6. Chris Mote	6. Raj Ray		

**Contact:** Manize Talukdar, Democratic & Electoral Services Officer  
Tel: 020 8424 1323 E-mail: [manize.talukdar@harrow.gov.uk](mailto:manize.talukdar@harrow.gov.uk)

## **AGENDA - PART I**

### **1. ATTENDANCE BY RESERVE MEMBERS**

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

### **2. DECLARATIONS OF INTEREST**

To receive declarations of disclosable pecuniary or non pecuniary interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Committee;
- (b) all other Members present.

### **3. DEPUTATIONS**

To receive deputations (if any) under the provisions of Committee Procedure Rule 16 (Part 4B) of the Constitution.

### **4. EARLY MORNING ALCOHOL RESTRICTION ORDER (EMRO) (Pages 1 - 24)**

Report of the Corporate Director of Environment and Enterprise.

## **AGENDA - PART II - NIL**

**REPORT FOR: LICENSING & GENERAL  
PURPOSES COMMITTEE**

---

**Date of Meeting:** 30 July 2013

**Subject:** Proposal to introduce an Early Morning Restriction Order in part of Stanmore

**Responsible Officer:** Caroline Bruce, Corporate Director of Environment and Enterprise

**Exempt:** No

**Enclosures:** Appendix 1 - Plan showing the area covered by Proposed EMRO  
Appendix 2 - Guidance issued under s182 of the LA 2003 (section 16)  
Appendix 3 - Police reform and Social Responsibility Act 2011, s119

## **Section 1 – Summary and Recommendations**

This report sets out the reasons why the introduction of an Early Morning Restriction Order (EMRO) in part of Stanmore should be considered and the process begun.

**Recommendations:**

That officers of the Licensing Authority be authorised to take the prescribed steps to seek to introduce an EMRO in part of Stanmore as proposed in this report.

## Section 2 – Report

### Background

- 2.1 The Police Reform and Social Responsibility Act 2011 extended the flexibility of the existing EMRO power in the Licensing Act 2003 to provide licensing authorities with an additional tool to shape and determine local licensing, and to address specific problems caused by late night drinking. The 2011 Act extended these powers to cover a longer period each night and lowered the threshold for introducing them. Licensing authorities now have the power to make EMROs if they consider this appropriate for the promotion of licensing objectives, rather than necessary. EMROs have been introduced alongside various other measures aimed at rebalancing the Licensing Act 2003 in favour of local communities, and to increase the tools and powers available to licensing authorities and the police to tackle alcohol-related problems in local areas.
- 2.2 EMROs are a local power that licensing authorities can choose whether or not to exercise. If a licensing authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices (TENs) that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.
- 2.3 Following its public consultation, *Dealing with the Problems of Late Night Drinking*, the Government has announced that in relation to EMROs there will be no exemptions for types of premises, as there are in relation to the late night levy apart from stipulated under s172e of the PRSR Act. This will ensure that EMROs will be a simple, pre-packaged tool for licensing authorities to use to readjust the focus of their night-time economy away from problem drinking, if such a measure would promote the licensing objectives.
- 2.4 In recognition of New Year Eve's status as a night of national celebration, EMROs do not apply on New Year's Eve into New Year's Day. This is a national exemption and applies to every EMRO made.
- 2.5 An EMRO may be applied to the whole or part of the licensing authority's area, if the licensing authority considers this is appropriate for the promotion of the licensing objectives.
- 2.6 Licensing authorities are required to advertise their proposal to make an EMRO and consider any representations made about it before deciding whether to introduce an EMRO in their areas.
- 2.7 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate

for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

2.8 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days. The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:

- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
- premises users in relation to TENs to which the proposed EMRO would apply;
- those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.

2.9 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

2.10 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

2.11 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:

- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
- be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;

- be received within the deadline; and
  - if made by a person other than a responsible authority, not be frivolous or vexatious.
- 2.12 Responsible authorities may wish to make representations, as may affected persons
- 2.13 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:
- residents;
  - employees of affected businesses;
  - owners and employees of businesses outside the proposed EMRO area; and
  - users of the late night economy.

### **3. Current situation**

- 3.1 It is quite usual for premises to serve Temporary Event Notices (TENs) from time to time in order to extend their permitted activities to cover some of the seasonal holiday and celebratory periods.
- 3.2 Further to changes to the Licensing Act 2003, the number of TENs that premises can serve on the Licensing Authority have increased as well as the duration of TENs, allowing premises to open for longer hours and for longer periods.
- 3.3 During the last Christmas period a collection of premises within the Stanmore area (please refer to the attached map) were open until 5:30 am during Saturday and Sunday evenings and till 4:30 am on Friday evenings (on most weekends from November 2012 until early January 2013).
- 3.4 This Authority and the Out of Hours Noise Team received many complaints from that area regarding public nuisance until the early hours of the morning relating to customer noise, fights and drunken behaviour.
- 3.5 Due to this considerable increase in complaints, additional patrols up to 5am were organised by the Licensing Team to visit and monitor closing times and dispersal policies of each venue. Whilst this reduced some of the complaints, the neighbouring residents continued to suffer from anti social behaviour from patrons until the early hours of the morning.

### **4. Why a change is needed**

- 4.1 It is likely that the Authority will be served with similar TENs this year leading up to the Christmas period.

- 4.2 As the complaints are related to more than one premises and the causal effect is of a cumulative nature, the Police or Environmental Health are unable to make a valid representation against these TENs.

## **5. Main options**

- 5.1 It is recommended that an Early Morning Restriction Order (EMRO) is placed in the geographical area marked on the attached map to cover Licensed Premises so that it would cover any TENs served by these premises and restrict the hours of sale or supply of alcohol to the hours stipulated by the EMRO.
- 5.2 It is proposed that the EMRO would start at 02.00 and finish at 06.00 everyday starting on 1 November 2013 and finishing on 5 January 2014.

## **6. Other options considered**

- 6.1 Cumulative Impact Zones (CIPs)
- 6.2 Whilst these zones would take account of problems caused due to the density of the licensed premises in the area, CIPs do not control TENs. Hence this option would not be suitable for what the Authority is seeking to achieve.
- 6.3 See paragraph 4.2 also.

## **Legal comments**

The Licensing Act 2003 (sections 172A - 172E) and the Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012 set out details about EMROs and the process to create them. The Guidance to the Licensing Act 2003 also provides details (in section 16 – see enclosed) of the process to be followed.

## **Financial Implications**

- There are no financial implications to the Council.

## **Risk Management Implications**

Risk included on Directorate risk register? No

Separate risk register in place? No

It is likely that affected Businesses will resist the Authority making this order and representations against the introduction of the proposed EMRO are

likely from local and national organisations. There is a statutory process that would need to be followed to deal with these.

## Equalities implications

Was an Equality Impact Assessment carried out? An initial assessment has been carried out which indicated a LOW impact and a full EQIA will be conducted and results analysed as part of the process, taking into account any representations made.

## Corporate Priorities

Please identify which corporate priority the report incorporates and how:

- Keeping neighbourhoods clean, green and safe.  
The Order will reduce Anti Social behaviour experienced by the Residents in this locality
- United and involved communities: A Council that listens and leads.  
Further to complaints from Residents during the last festive period this Department has tried to address these issues with the operators with little success, hence the decision to consult on this order to minimise the impact on residents

## Section 3 - Statutory Officer Clearance

Name:Kanta Halai	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 18 July 2013		
Name: Paresh Metha	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 18 July 2013		

## Section 4 - Contact Details and Background Papers

**Contact:** Shankar P Sivashankar, Service Manager 8736 6237



## Background Papers:

Licensing Act 2003

Police Reform and Social Responsibility Act 2011, EMROs

Statutory Guidance issued under s182 of the Licensing Act 2003, June 2013

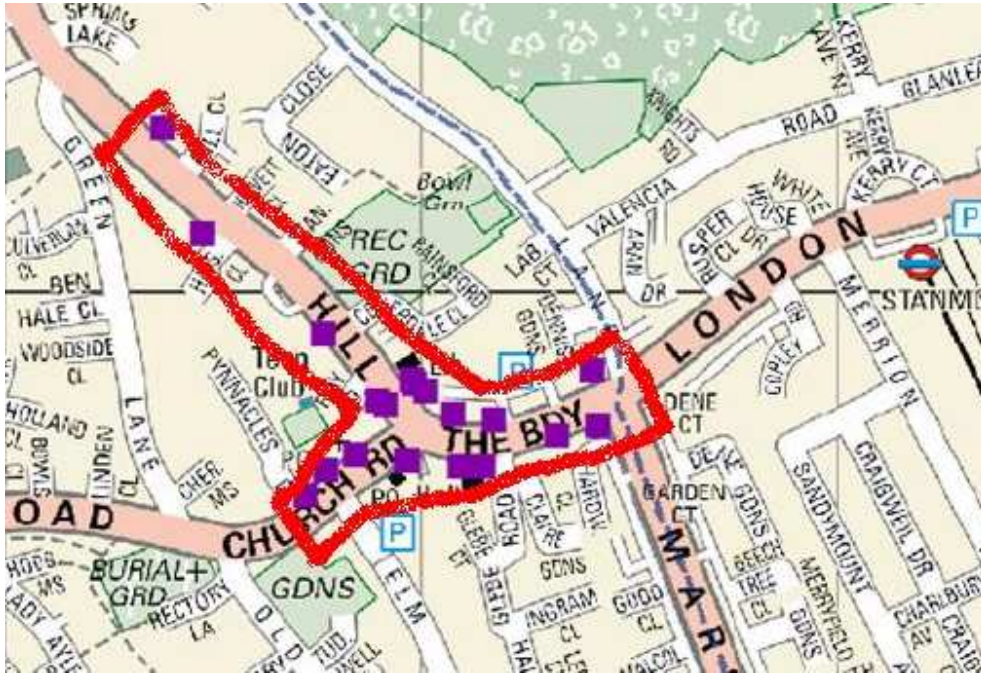
If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES

This page is intentionally left blank

## Appendix 1

### PROPOSED COVERAGE OF EARLY MORNING RESTRICTION ORDER



### LICENSED PREMISES AFFECTED BY THIS ORDER

- Apollonia Restaurant, 25-29 Church Road, Stanmore, Middlesex, HA7 4AR.  
Buckingham Foods, 9 Buckingham Parade, The Broadway, Stanmore, Middlesex, HA7 4EB.  
\*The Crazy Horse, 43 Church Road, Stanmore, Middlesex, HA7 4AA.  
The Elysian Restaurant, 11 Stanmore Hill, Stanmore, Middlesex, HA7 3DP.  
Prezzo, 67 The Broadway, Stanmore, Middlesex, HA7 4DA.  
Lidl Supermarket, 80-82 The Broadway, Stanmore, Middlesex, HA7 4HB.  
Delisserie, 11 Buckingham Parade, The Broadway, Stanmore, Middlesex, HA7 4EB.  
The Man In The Moon Public House, 1 Buckingham Parade, The Broadway, Stanmore, HA7 4EB.  
Maurya, 16 Church Road, Stanmore, Middlesex, HA7 4AR.  
Memories Of India Restaurant, 12 Buckingham Parade, The Broadway, Stanmore, Middlesex, HA7 4EB.  
Pizza Express, 55 The Broadway, Stanmore, Middlesex, HA7 4DJ.  
Raw Lasan, The Vine Inn Public House, 154 Stanmore Hill, Stanmore, Middlesex, HA7 3DA.  
Spice Rack, The Vintry Public House, 35 Church Road, Stanmore, Middlesex, HA7 4AD.  
Sainsbury's, 1-9 The Broadway, Stanmore, Middlesex, HA7 4DA.  
Sahara Lounge, 7 Stanmore Hill, Stanmore, Middlesex, HA7 3DP.  
Abercorn Arms, 78 Stanmore Hill, Stanmore, Middlesex, HA7 3BU.  
Social Club, Royal National Orthopaedic Hospital, Brockley Hill, Stanmore, Middlesex, HA7 4LP.  
Stanmore Social Club, Rear, 25 The Broadway, Stanmore, Middlesex, HA7 4DA.  
Lava Lanes, 16 Church Road, Stanmore, Middlesex, HA7 4AR.  
Malthurst Stanmore, 65 Stanmore Hill, Stanmore, Middlesex, HA7 3DZ.  
Stanmore Golf Club, Club House, 29 Gordon Avenue, Stanmore, Middlesex, HA7 2RL.

This page is intentionally left blank

## Appendix 2

# Statutory Guidance issued under s182 of the Licensing Act 2003

JUNE 2013

## 16. Early morning alcohol restriction orders

### General

16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

16.2 EMROs are designed to address recurring problems 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.

16.3 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 each year);

- will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only 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.

## The EMRO process

16.4 An EMRO can apply to the whole or part of the licensing authority's area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.

16.5 If the licensing authority already has a Cumulative Impact Policy ("CIP") in its Licensing Policy Statement (see Chapter 13 of this Guidance), it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

16.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing subcommittee or officers as it sees fit.

## Evidence

16.7 When establishing its evidence base for making an EMRO, a licensing authority may wish to consider the approach set out in paragraphs 13.23 to 13.26 of this Guidance

which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant.

16.8 Before a licensing committee determines to recommend that the full council make a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on their experience from other licensing decisions they make under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

## Introducing an EMRO

16.9 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. As set out in paragraphs 9.38-9.40 of this Guidance, 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. Other measures that could be taken instead of making an EMRO might include:

- introducing a CIP;
- reviewing licences of specific problem premises;
- encouraging the creation of business-led best practice schemes in the area;
- using other mechanisms such as those set out in paragraph 13.39 of this Guidance.

16.10 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can

propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.

## Advertising an EMRO

16.11 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period comprising calendar days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:

- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
- premises users in relation to TENs to which the proposed EMRO would apply;

- those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.

16.12 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

16.13 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

## Representations

16.14 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:

- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
- be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
- be received within the deadline; and
- if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious. Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.

16.15 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).

16.16 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:

- residents;
- employees of affected businesses;



- owners and employees of businesses outside the proposed EMRO area; and
- users of the late night economy.

## Hearings

16.17 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.

16.18 As described in paragraph 16.6, a hearing to consider representations in relation to an EMRO may be held by the licensing committee, the licensing sub-committee or an officer of the licensing authority. It is recommended, however, that such hearings be conducted by the licensing committee or sub-committee.

16.19 Licensing committees should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:

- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
- the hearing does not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers this approach to be in the public interest;
- a licensing committee or sub-committee must make its determination within 10 working days of the conclusion of the hearing; and
- the licensing committee or sub-committee is not required to notify those making representations of its determination.

16.20 The licensing committee or sub-committee will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing committee or sub-committee determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.

16.21 As a result of the hearing, the licensing committee has three options:

- to determine that the proposed EMRO is appropriate for promotion of the licensing objectives;

- to determine that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to determine that the proposed EMRO should be modified.

In the final case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations may be made.

## Final EMRO

16.22 If the licensing determines that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision. There is no time specified in legislation by which the full council must make this decision. This is intended to reflect the fact that the licensing authority may only meet in full council infrequently.

16.23 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.21.

The order must be set out in the prescribed form and contain the prescribed content.

16.24 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.

16.25 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.

16.26 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.

16.27 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.

16.28 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

### **Exceptions to an EMRO**

16.29 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

### **Enforcement of EMROs**

16.30 The sale or supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance. 16.31 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

This page is intentionally left blank

*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 2

#### LICENSING

#### CHAPTER 1

#### AMENDMENTS OF THE LICENSING ACT 2003

#### *Early morning alcohol restriction orders*

PROSPECTIVE

#### **119 Early morning alcohol restriction orders**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 7 (exercise and delegation of functions), in subsection (2), after paragraph (a) (but before the final “or”) insert—
  - “(aa) the functions of making, and varying or revoking, an order under section 172A (early morning alcohol restriction order).”
- (3) For sections 172A to 172E (early morning alcohol restriction order), as inserted by section 55 of the Crime and Security Act 2010, substitute—

*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

#### **“172A Power to make early morning alcohol restriction order**

- (1) If a licensing authority considers it appropriate for the promotion of the licensing objectives, it may, subject as follows, make an order under this section.
- (2) An order under this section is an order providing that—
  - (a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, do not have effect to the extent that they authorise the sale of alcohol during the period specified in the order, and
  - (b) club premises certificates granted by the authority do not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club during the period specified in the order.
- (3) For the purposes of subsection (2)(a) and (b), the period that may be specified in the order must—
  - (a) begin no earlier than midnight, and
  - (b) end no later than 6am.
- (4) It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made.
- (5) An order under this section may provide that it is to apply—
  - (a) in relation to the same period of every day on which the order is to apply, or in relation to different periods of different days,
  - (b) every day or only on particular days (for example, particular days of the week or year),
  - (c) in relation to the whole or part of a licensing authority's area, or
  - (d) for a limited or unlimited period.
- (6) An order under this section must specify—
  - (a) the days on which it is to apply and the period of those days,
  - (b) the area in relation to which it is to apply,
  - (c) if it is to apply for a limited period, that period, and
  - (d) the date from which it is to apply.
- (7) An order under this section must—
  - (a) be in the prescribed form, and
  - (b) have the prescribed content.

#### **172B Procedural requirements for early morning alcohol restriction order**

- (1) A licensing authority proposing to make an order under section 172A must—
  - (a) advertise the proposed order in the prescribed manner, and
  - (b) hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary.

---

*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (2) In this section “relevant representations” means representations which—
- (a) are about the likely effect of the making of the proposed order on the promotion of the licensing objectives,
  - (b) are made to the licensing authority by an affected person, a responsible authority or any other person,
  - (c) are made in the prescribed form and manner and within the prescribed period,
  - (d) have not been withdrawn, and
  - (e) in the case of representations made by a person who is not a responsible authority, are not, in the opinion of the licensing authority, frivolous or vexatious.
- (3) In subsection (2)(b), “affected person” means—
- (a) the holder of the premises licence or club premises certificate in respect of affected premises,
  - (b) the premises user in relation to a temporary event notice in respect of affected premises,
  - (c) a person who has applied for a premises licence or club premises certificate in respect of affected premises (where the application has not been determined), and
  - (d) a person to whom a provisional statement has been issued in respect of affected premises.
- (4) In subsection (2)(b) and (e), “responsible authority” means—
- (a) the licensing authority and any other licensing authority in whose area part of any affected premises is situated,
  - (b) the chief officer of police for a police area any part of which is in the area specified in the order,
  - (c) the fire and rescue authority for an area any part of which is in the area specified in the order,
  - (d) the Primary Care Trust or Local Health Board for an area any part of which is in the area specified in the order,
  - (e) the local weights and measures authority for any such area,
  - (f) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any such area,
  - (g) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any such area,
  - (h) the local authority by which statutory functions are exercisable in the area specified in the order in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
  - (i) a body which—
    - (i) represents those who, in relation to the area specified in the order, are responsible for, or interested in, matters relating to the protection of children from harm, and
    - (ii) is recognised by the licensing authority for the purposes of this section as being competent to advise on such matters,
  - (j) where affected premises are a vessel—
    - (i) a navigation authority (within the meaning given by section 221(1) of the Water Resources Act 1991) having

---

*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

---

functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is navigated at a time when it is used for licensable activities to which the proposed order relates,

- (ii) the Environment Agency,
  - (iii) the British Waterways Board, and
  - (iv) the Secretary of State, and
- (k) a prescribed person.

(5) Where a licensing authority determines for the purposes of subsection (2)(e) that any representations are frivolous or vexatious, it must notify the person who made them of its reasons for its determination.

(6) In this section—

“affected premises”, in relation to a proposed order, means premises in respect of which it applies from the date specified in it;

“statutory function” means a function conferred by or under an enactment.

#### **172C Making of early morning alcohol restriction order**

(1) A licensing authority may not make an order under section 172A applying in relation to—

- (a) an area not specified in the proposed order advertised under section 172B,
- (b) a day not specified in that proposed order, or
- (c) a period other than the period specified in that proposed order of any day so specified.

(2) After making an order under section 172A a licensing authority must publish it or otherwise make it available—

- (a) in the prescribed form and manner, and
- (b) within the prescribed period.

#### **172D Variation and revocation of early morning alcohol restriction order**

(1) A licensing authority may vary or revoke an order under section 172A.

(2) Sections 172B and 172C apply in relation to the variation or revocation of an order under section 172A as in relation to the making of such an order.

#### **172E Exceptions from effect of early morning alcohol restriction order**

(1) An order under section 172A does not apply in prescribed cases or circumstances.

(2) The cases referred to in subsection (1) may in particular be defined by reference to—

- (a) particular kinds of premises, or
- (b) particular days.



---

**Status:** This version of this provision is prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

---

- (3) An order under section 172A is subject to an order under section 172 (whether made before or afterwards), unless and to the extent that the order under section 172 provides otherwise.”.
- (4) Section 55 of the Crime and Security Act 2010 (power to restrict sale and supply of alcohol) is repealed.

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Police Reform and Social Responsibility Act 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to :**

- s. 119(3) words substituted by [S.I. 2012/1659 Sch. 3 para. 22](#)

**Commencement Orders yet to be applied to the Police Reform and Social Responsibility Act 2011:**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/2515 art. 2 3](#) commences (2011 c. 13)
- [S.I. 2011/2834 art. 2 3](#) commences (2011 c. 13)
- [S.I. 2011/3019 art. 3 Sch. 1](#) commences (2011 c. 13)

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2011/2896 art. 2](#) commences (2011 c. 20)