
EARLY MORNING ALCOHOL RESTRICTION ORDERS AND LATE NIGHT LEVY

1 SUMMARY

- 1.1 To provide an update to Members in relation to changes to the Licensing Act 2003 specifically relating to Early Morning Alcohol Restriction Orders and the Late Night Levy.

2 INTRODUCTION

- 2.1 Parliament has recognised that the night time economy can have adverse impacts on local communities including noise, litter and alcohol related crime and injury and the management of these impacts has a cost implication for public services.
- 2.2 The Police Reform and Social Responsibility Act 2011 introduced a number of amendments to the Licensing Act 2003, the majority of which were implemented on 25 April 2012. On 31 October 2012 the Act introduced the Early Morning Alcohol Restriction Order and the Late Night Levy, both of which are intended to tackle alcohol related crime and disorder and to help to pay for extra enforcement costs associated with the late opening of premises.

3 BACKGROUND

Early Morning Alcohol Restriction Order (EMRO)

- 3.1 An EMRO is a power that has been introduced to enable a Licensing Authority to restrict the sale of alcohol between the hours of midnight and 0600 hours in the whole or part of its area on all or specified days.
- 3.2 It is 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.
- 3.3 The restriction would apply to premises licences, club premises certificates and temporary event notices. The only exceptions are premises that provide accommodation and supply alcohol to residents through mini-bars and room service and all premises on New Year's Eve.
- 3.4 A Licensing Authority can decide to make an EMRO if it has sufficient evidence that the Order is appropriate for the promotion of the four licensing objectives.
- 3.5 The Authority, if considering an Order, is required to notify all Responsible Authorities; holders of premises licences and club premises certificates to which the Order would apply and premises users in relation to TENs to which the Order would apply.

- 3.6 The proposed Order must be advertised for a period of 42 days on the Authority's website and display a notice of the proposal within the area to which the EMRO would apply. It must also be advertised within a local newspaper.
- 3.7 If representations are received then a hearing must be held to determine the outcome of the EMRO. If it is deemed appropriate that an EMRO be made, the Licensing Authority must be able to fully justify its decision or risk a possible judicial review.
- 3.8 The Order will need to be approved by Full Council and decide on a start date for the Order, no less than two months after it is made.

Late Night Levy

- 3.9 The late night levy is a power for Licensing Authorities to introduce a charge for premises that have an alcohol licence with a terminal hour after midnight. The charge is to assist with the funding of the extra enforcement costs that the night-time economy generates for Police and Local Authorities.
- 3.10 Before making a decision to implement the levy, the Licensing Authority should have discussions with the relevant Chief Officer of Police, the Police and Crime Commissioner and local Police to decide whether it is appropriate to introduce the levy in its area. If it is considered appropriate then the Authority must formally consult the Police, the Police and Crime Commissioner, licence holders and any other person about its decision. This consultation should also ask whether the Licensing Authority needs to apply any exemptions or discounts to the levy.
- 3.11 The levy, if introduced, will apply to all premises within the District that qualify (both in the on-trade and the off-trade) with the only exceptions being those listed at paragraph 3.12. The time period during which times the levy applies every night, between midnight and 0600 hours, can be set by the Authority.
- 3.12 The Licensing Authority has the discretion to exempt the following premises from the levy: premises with overnight accommodation, theatres and cinemas, bingo halls, community amateur sports clubs, community premises, public house entitled to rural rate relief, business improvement districts and premises that open late only on New Year's Eve.
- 3.13 The Licensing Authority will have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme e.g., Pub Watch, or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000.
- 3.14 The rate of late night levy has been set nationally with the charge calculated in relation to the rateable value, as the current payable annual fee. The following charges will apply to the levy:-

Rateable Value Band	Annual Levy Charge
Band A - £0 to £4,400	£299
Band B - £4,301 to £33,000	£768
Band C - £33,001 to £87,000	£1,259
Band D - £87,001 to £125,00	£1,365
Band E - £125,001 & above	£1,493
Band D with multiplier	£2,730
Band E with multiplier	£4,440

- 3.15 If a levy is to be introduced, premises licence holders will have the opportunity to vary their licence by way of a free minor variation in order to reduce their hours to bring them outside of the levy period. They will still have the ability to apply for Temporary Event Notices for a maximum of 21 days per year. This could lead to a large amount of extra work for the Licensing team with very little income as the fee for a notice is only £21.
- 3.16 The Licensing Authority will be responsible for collecting the levy, which will fall due at the due date for the licence annual fee. The Authority will be able to deduct costs incurred in administering, collecting and enforcing the scheme.
- 3.17 The total net revenue collected would then be split between the Police and the Licensing Authority with the Police receiving 70% and the Licensing Authority retaining 30%.
- 3.18 The Authority will have restrictions imposed as to how the revenue must be used. It must be spent on tackling alcohol related crime and disorder and services connected to the management of the night time economy. The 70% of revenue given to the Police can be spent at the discretion of the Police and Crime Commissioner. Therefore revenue collected from local premises could be used to subsidise policing in larger towns such as Southend, Colchester or Chelmsford.

Relevance to Rochford District

- 3.19 Initial discussion with Essex Police indicates that they are of the opinion that neither EMROs or the Late Night Levy are necessary within the Licensing Authority area at the present time.

4 RISK IMPLICATIONS

- 4.1 EMRO's and Late Night Levy, if introduced, could have an effect on the fairly vibrant late night economy as it will put extra financial strain on licensed premises.
- 4.2 If introduced by this Authority and not by neighbouring Authorities this again could have a negative impact on our night time economy who could suffer further financial losses through not being on an even footing with their competitors.

5 CRIME AND DISORDER IMPLICATIONS

- 5.1 Licensing legislation provides the Authority with a means of reducing crime and disorder as well as the ability to protect vulnerable persons.

6 RESOURCE IMPLICATIONS

- 6.1 If licenced premises choose to reduce their hours to avoid paying the late night levy then any anticipated income could be severely reduced. Extra staffing resources would be required to process the variation applications with no fees and to process additional temporary event notices with low fees and possible additional hearings.

7 LEGAL IMPLICATIONS

- 7.1 If the Licensing Authority decides to implement EMROs or the Late Night Levy it must ensure it has sufficient evidence and must formally consult with the Police and Crime Commissioner, the Police, licence holders and others about its decision. Failure to do so and not being able to fully justify its decision could result in legal challenge.

8 EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 The introduction of an EMRO or late night levy in accordance with the legislation will not have any adverse impact on any particular section of the community.

9 RECOMMENDATION

- 9.1 It is proposed that the Committee **RESOLVES**
 - (1) That the changes to the Licensing Act 2003 brought about by the Police Reform and Social Responsibility Act 2011 in the form of the adoptive powers to implement Early Morning Alcohol Restriction Orders and the Late Night Levy be noted.
 - (2) That a further report be submitted to Licensing Committee should a credible case for either an Early Morning Alcohol Restriction Order or Late Night Levy be put forward by the Police.

Richard Evans
Head of Environmental Services

Background Papers:-

Licensing Act 2003

Police Reform and Social Responsibility Act 2011

Licensing Act Section 182 Guidance

Guidance Issued by the Home Office on the Late Night Levy.

For further information please contact Peter Nellies (Senior Licensing Officer) on:-

Phone: 01702 318058

Email: peter.nellies@rochford.gov.uk

If you would like this report in large print, Braille or another language please contact 01702 318111.