



Committee: LICENSING ACT COMMITTEE

Date: THURSDAY, 22 MARCH 2012

Venue: LANCASTER TOWN HALL

Time: 2.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of the meeting held on 23 June 2011 (previously circulated).

3. **Items of Urgent Business Authorised by the Chairman**

4. **Declarations of Interest**

5. **Home Office Consultation on 'Dealing with the problems of late night drinking'**
(Pages 1 - 30)

Report of the Licensing Manager

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors Joyce Taylor (Chairman), Helen Helme (Vice-Chairman), Paul Aitchison, June Ashworth, Josh Bancroft, Chris Coates, Kathleen Graham, Mike Greenall, Val Histed, Tracey Kennedy, Margaret Pattison, Vikki Price, Roger Sherlock, Malcolm Thomas and Paul Woodruff

(ii) **Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email jglenton@lancaster.gov.uk.

(iii) **Changes to Membership or apologies**

Please contact Members' Secretary, telephone (01524) 582170, or email memberservices@lancaster.gov.uk.

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Published on Tuesday, 13 March 2012.

LICENSING ACT COMMITTEE**Home Office Consultation on 'Dealing with the problems of late night drinking'****22 March 2012****Report of the Licensing Manager****PURPOSE OF REPORT**

This report is to seek members' views on the proposed responses to the questions posed by the Home Office as part of the consultation on 'dealing with the problems of late night drinking' and to seek their approval to submit a response on behalf of Lancaster City Council to the consultation.

This report is public

RECOMMENDATIONS

That members consider the Home Office Consultation on 'dealing with the problems of late night drinking' and the draft response prepared by officers, and consider whether they wish to make any amendments to the draft, and authorise the Licensing Manager to respond to the Home Office on behalf of the licensing authority.

1.0 Introduction

- 1.1 A Home Office consultation launched on the 17th January is seeking views about two measures in the Police Reform and Social Responsibility Act 2011 that will be implemented through regulations. Early Morning Restriction Orders (EMROs) and the late night levy.
- 1.2 The consultation entitled 'dealing with the problems of late night drinking' was launched by the minister for crime prevention and antisocial behaviour reduction Lord Henley, and looks at the implementation of the two new powers contained in the Police Reform and Social Responsibility Act 2011.
- 1.3 The measures, due to be implemented in the autumn, will:
 - allow local authorities to charge a levy for late-night licences to contribute to the cost of extra policing;
 - extend Early Morning Restriction Orders (EMROs), a power that will allow licensing authorities to restrict the sale of alcohol in all or part of their areas to any time between midnight and 6am.

- 1.4 The late night levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether to adopt for their areas. The purpose of the levy is to allow licensing authorities to charge more for late licences to contribute towards policing and other costs associated with late drinking (e.g. taxi marshalling). The levy would apply to all premises with a licence to sell alcohol during hours designated by the licensing authority between midnight and 6 am in the whole licensing authority. Licensing authorities will have discretion to grant discount or exemptions to different categories of premises (to be prescribed centrally). Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy. The charges will be set centrally by rateable value and will be collected with the licensing fee.
- 1.5 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. Section 6 of the consultation considers the available categories of premises to which exemptions and reductions will apply.
- 1.6 The initial decision to apply the levy would be taken by the licensing authority in consultation with the police, targeted consultation with licence holders and affected premises on details of the levy, e.g. exemptions. Licensing authorities would then have to write to all licence holders to give them the opportunity to reduce their hours (by minor variation) if they trade after midnight. It is proposed by the Home Office that there would be no charge for the minor variation. Licensing authorities would then be allowed to deduct administration costs from the total levy revenue. A minimum of 70% of the remainder must then go to the police, with up to 30% being used for other licensing authority costs.
- 1.7 The late night levy would apply to the whole of the licensing authority's area, but this may include a number of premises which perhaps should not pay the levy or be entitled to a reduced rate. Licensing authorities will be able to offer exemptions or discounts to certain categories of businesses, these categories will be set centrally and are included in this consultation. To promote responsible business, licensing authorities may be able to exempt members of best practice schemes such as Business Improvement Districts. There may also be types of premises, such as certain hotels who have a late licence for mini –bars in guests' rooms, who do not benefit from policing of the late night economy. Categories of exemptions adopted will be optional so that licensing authorities have the discretion to decide what is appropriate for their own circumstances. The Home Office will define these categories in secondary legislation.
- 1.8 Early Morning Restriction Orders (EMROs) are intended to allow licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. An EMRO is a power introduced by the previous Government (not yet commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days.
- 1.9 The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.

- 1.10 Section 4 of the consultation considers exemptions to the EMRO power that will apply to all EMROs, exempting some types of premises from the provisions.
- 1.11 Section 6 looks at the use of schemes like Best Bar None, Business Improvement Districts (BIDs) and Community Alcohol Partnerships as possible alternatives or complements to EMROs or the levy.
- 1.12 The consultation seeks to identify the types of premises, for example hotels, cinemas and community venues, which could be exempted or eligible for a reduction in levy charges if they are viewed as having a minimal effect on alcohol-related crime and disorder
- 1.13 The Consultation asks a series of questions about the proposals with responses required by 12th April 2012. The Consultation Document is attached as appendix 1 to this report.
- 1.14 Officers have considered the questions and indeed have attended meetings with Licensing Officers from other authorities where these issues have been discussed, and have drafted responses for consideration by this Committee. These responses are attached as appendix 2 to this report, but it is recognised that they reflect the views of the officers, and that members may have different views.

2.0 Conclusion

In summary, members are requested to consider the consultation document and the proposed response, and to make any amendments to the response that they see fit, and to authorise the Licensing Manager to submit a response to the Home Office.

CONCLUSION OF IMPACT ASSESSMENT
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(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

There are no financial implications at this stage, as the proposals are for consultation. Once the proposals are implemented, consideration will need to be given as to whether the licensing authority wishes to implement the new powers, and a financial appraisal would be carried out at that stage.

LEGAL IMPLICATIONS

There are no legal implications at this preliminary consultation stage.

BACKGROUND PAPERS	Contact Officer: Ms W Peck
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Home Office Consultation Paper on Dealing with the problems of late night drinking.	Telephone: 01524 582317
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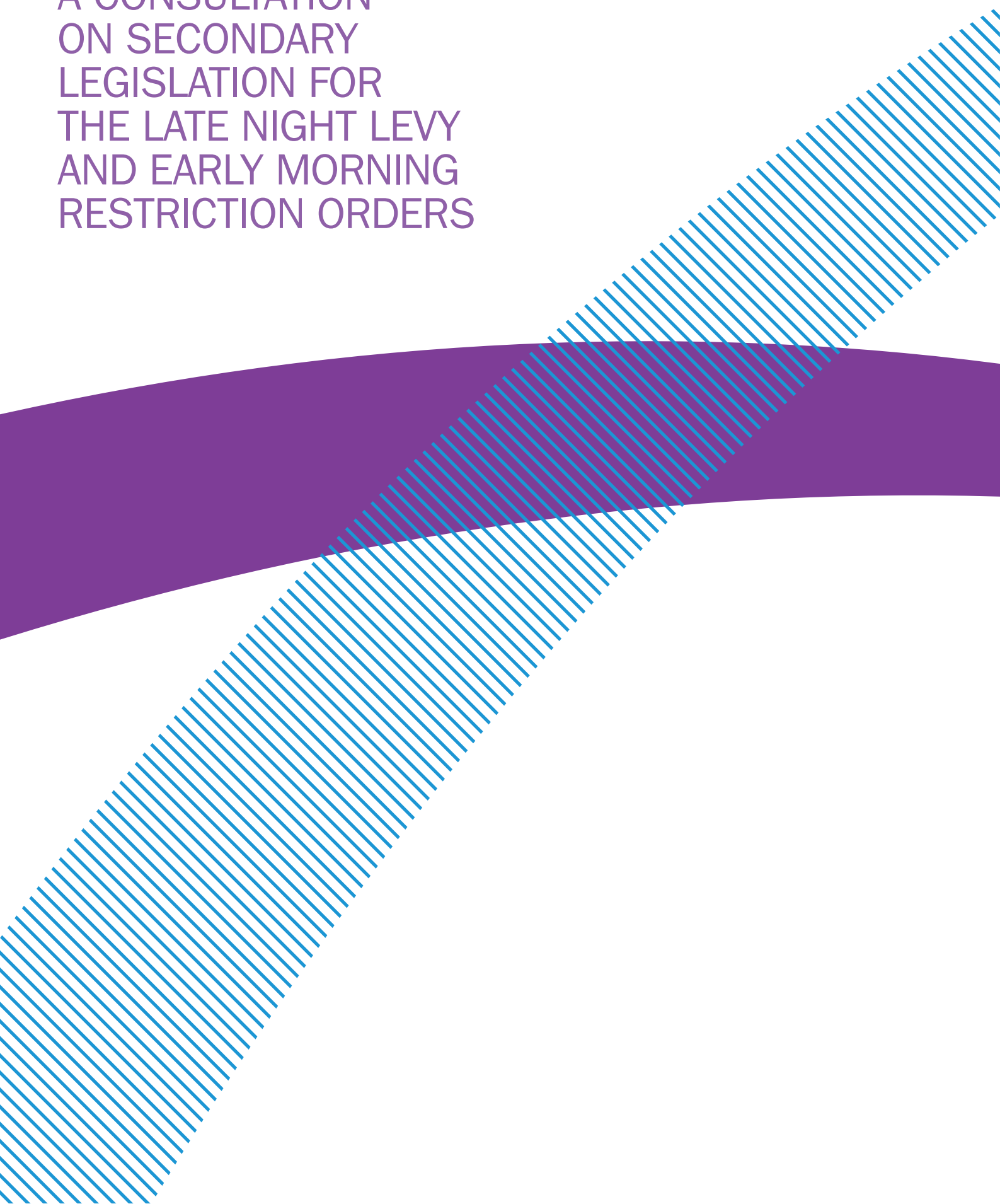
	E-mail: wpeck@lancaster.gov.uk
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**DEALING WITH THE
PROBLEMS OF LATE
NIGHT DRINKING**
A CONSULTATION
ON SECONDARY
LEGISLATION FOR
THE LATE NIGHT LEVY
AND EARLY MORNING
RESTRICTION ORDERS



Home Office



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MINISTERIAL FOREWARD



I believe that problems in the night-time economy should be addressed locally. The Government is committed to ensuring that the police and local authorities are given the right tools to address the alcohol-related problems in their area, whilst promoting a vibrant night-time economy to benefit business and the community that they serve. The late night levy and the extension of Early Morning Restriction Orders (“EMROs”) will enable local authorities to achieve this. If local communities are concerned about premises that are open into the early hours of the morning and causing problems, then they should be able to respond flexibly. The majority (64%) of all violence occurs in the evening or at night and one-fifth of all violent incidents take place in or around a pub or club. By extending EMROs so that they can be applied from midnight, local authorities will have an additional tool to address problem areas in the night time economy.

Where there is a vibrant late night economy, with premises remaining open into the early hours, then the local authority should have the flexibility to charge for a contribution towards any additional policing that this generates. Tax payers should not simply be left to pick up this cost. People who enjoy a night out often visit a variety of premises and it is appropriate that the costs are shared between these businesses.

This consultation seeks views on the details of the regulations that will implement these policies. In particular, it asks for views on what categories of premises should enjoy exemptions and reductions under both measures. For example, I do not wish to unfairly penalise premises which are not part of the wider late night economy. These include, for example, hotels and B&Bs which serve only to guests, and the consultation therefore proposes these as one of the categories of exemption from both measures.

I would very much welcome views on these and other proposals on how the late night levy and EMROs will be implemented. Overall, our intention is that both measures will empower local communities to act to achieve a more viable night time economy.

Lord Henley

Minister of State for Crime Prevention and Antisocial Behaviour Reduction

1. INTRODUCTION

- 1.01 This consultation is about two measures in the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) that will be implemented through regulations: Early Morning Restriction Orders (“EMROs”) and the late night levy (“the levy”).
- 1.02 Alcohol-related crime and disorder is a serious problem for many of our communities. The promised “café-culture” from later drinking hours has not materialised. In 2010/11, almost one million violent crimes were alcohol-related and almost half of surveyed violent crime victims believed the offender to be under the influence of alcohol. The police are fighting an expensive battle against alcohol-related crime and disorder. The Coalition Programme for Government recognised these problems and contained a set of commitments to tackle alcohol misuse, especially late at night. The necessary changes to primary legislation have been made through the 2011 Act.
- 1.03 EMROs will help licensing authorities to address specific problems caused by the late night supply of alcohol in their areas. An EMRO is a power introduced by the previous Government (which has not yet been commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days. The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. However, we believe that some types of premises should not be subject to an EMRO. Section 4 of this consultation considers exemptions to the EMRO power that will apply to all EMROs.
- 1.04 The levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether to adopt for their areas. The licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night. Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy.
- 1.05 Licensing authorities will decide whether any (and, if so, which) of the categories of exemptions and reductions will apply to the levy. Section 6 of this consultation considers the available categories of premises to which exemptions and reductions will apply. The government is also keen to promote local and business-led initiatives. Many businesses successfully work together in schemes like Best Bar None, Business Improvement Districts (BIDs) and Community Alcohol Partnerships. Authorities and business communities might wish to consider these schemes as possible alternatives or complements to EMROs or the levy. Section 6 also considers this issue.
- 1.06 To inform this consultation, working groups and meetings were held with representatives from the police, the licensed trade, best-practice schemes, licensing authorities and the hospitality industry.
- 1.07 A consultation-stage Impact Assessment is attached to this consultation. This will be updated following the consultation if necessary.

2. ABOUT THIS CONSULTATION

Scope of the consultation

<p>Topic of this consultation:</p>	<p>This consultation seeks views on certain aspects of EMROs and the late night levy.</p> <p>EMROs</p> <ul style="list-style-type: none"> • Process of adopting an EMRO. • Categories of business which will be exempt from any EMRO. <p>Late night levy</p> <ul style="list-style-type: none"> • Process of adopting the levy. • Categories of business which individual licensing authorities may choose to exempt from, or afford a reduction in relation to, the late night levy. • The kinds of services a licensing authority may fund with the 30% of net levy receipts it may retain from the net levy revenue.
<p>Scope of this consultation:</p>	<p>Regulations will be made under powers in the 2011 Act and Licensing Act 2003 in relation to the late night levy and EMROs. The Government intends to commence both powers, but would like to hear views on the above and on the impact assessment before preparing the regulations.</p>
<p>Geographical scope:</p>	<p>England and Wales</p>
<p>Impact assessment (IA):</p>	<p>A consultation stage IA is included with the consultation document. A small firm impact test is included</p>

Basic Information

To:	We are keen to hear from everyone who will be affected by the two measures, including; members of the public to whom alcohol is supplied; those affected by alcohol-related crime; those that own or work in pubs, clubs, supermarkets and shops; best practice scheme representatives; criminal justice agencies; licensing authorities; and trade associations representing those who sell alcohol.
Duration:	The consultation runs for 12 weeks from 17th January to 10th April.
Enquiries:	Alcohol.Consultation@homeoffice.gsi.gov.uk
How to respond:	Information on how to respond to this consultation can be found on the Home Office Website at http://www.homeoffice.gov.uk/about-us/consultations . Responses can be submitted online through the Home Office website or by post by sending responses to: Home Office Drugs and Alcohol Unit 4th Floor Fry Building 2 Marsham Street London, SW1P 4DF
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Getting to this stage:	The two powers were consulted on as part of the ‘Rebalancing the Licensing Act’ consultation (Summer 2010) and introduced in the Police Reform and Social Responsibility Act (September 2011).
Previous engagement:	The government has already consulted a number of key partners prior to publishing this consultation. As well as engagement as part of the ‘Rebalancing the Licensing Act’ consultation, officials have held pre-consultation working groups with stakeholders from the on and off trade; police and local authorities; best practice schemes and the voluntary sector.

PART 1 EARLY MORNING RESTRICTION ORDERS

3. PROCESS

3.01 The 2011 Act allows an EMRO to be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities can apply these orders to areas where they consider that restricting the late night supply of alcohol is appropriate to promote the licensing objectives. Before this power is commenced, regulations must be made.

3.02 The regulations will prescribe details of the process for making an EMRO and the kinds of premises that will be exempt from an EMRO. Consultation respondents are asked to consider the proposed process map in Annex A.

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

- Yes
- No
- Don't know

If no, please explain what else is needed

4. EXEMPTIONS TO EMROS

4.01 EMROs are designed to address recurring problems with alcohol-related crime and disorder in specific areas. The licensing authority will be able to decide during which hours the EMRO will apply, whether it is applied every day or on particular days; whether it will run for a limited or unlimited period; and whether it will apply to whole or part of the licensing authority's area. In each case, the decision will be based on what is appropriate for the promotion of the licensing objectives¹. There are some types of premises

¹ Licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

which should not be subject to an EMRO, wherever it is applied. Some businesses, wherever they may be located, do not contribute to alcohol-related crime and disorder. For example, a hotel may only serve alcohol to its guests who are staying overnight. As such, the 2011 Act enables the Secretary of State to make regulations which prescribe exemptions to an EMRO by reference to particular kinds of premises or particular days.

4.02 Many licences have additional authorisations on New Year's Eve to stay open later than usual. The government proposes that EMROs will not apply between midnight on 31st December and 6am on 1st January of each year.

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

- Yes – the EMRO should apply on New Year's Eve
- No – the EMRO should not apply on New Year's Eve
- Neither agree nor disagree
- Don't know

Please give reasons for your answer

4.03 Local discretion in setting the EMRO area is paramount, and the intention is to have only a few nationally prescribed exemptions. Some premises may need to vary their licence (to, for example, add a condition via the minor variations process) before an exemption is applicable to them.

4.04 EMROS will operate to restrict alcohol sales even when a Temporary Event Notice (TEN) is otherwise in effect. Section 172 of the Licensing Act 2003 enables the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. Primary legislation includes

provision that, unless the licensing hours order provides otherwise, the EMRO will not be effective to prevent alcohol sales in a period to which the extended hours order applies.

relevant period will be members or their guests; or those who stay overnight; or those who attend for a performance. We also propose that there is an exemption for community premises which have demonstrated that they do not need a Designated Premises Supervisor (DPS). We propose that the following exemptions will apply to every EMRO:

4.05 The proposed exemptions cover some types of premises where the only customers during the

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Community premises	Those premises that have successfully applied to remove the mandatory DPS requirement.
Casinos and bingo halls with a membership scheme	Premises licensed to provide these facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

- Agree – these categories of premises should be exempt from EMROs
- Disagree – these categories of premises should not be exempt from EMROs
- Neither agree nor disagree
- Don't know

Please give reasons for your answer, specifying any exemptions that you disagree with

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

- Yes
- No
- Don't know

If yes, please specify which other types of premises and give reasons.

PART 2 THE LATE NIGHT LEVY

5. PROCESS

- 5.01 The levy will allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off-trade), throughout the licensing authority's area, which are authorised to sell or supply alcohol in the time period set by the licensing authority. This can be any time between midnight and 6am. Section 172 of the Licensing Act 2003 permits the Secretary of State to make a licensing hours order to relax licensing hours on special occasions. The Government intends to ensure that this will not result in some premises inadvertently becoming liable to pay the late night levy. The levy will not apply to TENs. The 2011 Act makes provision for the Government to prepare draft regulations before the levy scheme is commenced.
- 5.02 Regulations will prescribe details of the process for adopting the late night levy. Consultation respondents are asked to consider the proposed process maps in Annex B.
- 5.03 Prior to making a decision to implement the levy, it is intended that the licensing authority will have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce the levy in its area. If so, the licensing authority must formally consult the PCC, the police, licence holders and others about its decision to introduce the levy. The consultation should ask whether it needs to apply any exemptions or discounts to the levy and how it will apportion net levy revenue between the police and licensing authority. The licensing authority will have the final decision in all of these areas.

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

- Yes
- No
- Don't know

If yes, do you have any suggestions on how this process should operate?

6. EXEMPTIONS AND REDUCTIONS TO THE LEVY

- 6.01 There are some types of premises which licensing authorities may consider should not make a contribution towards late night police costs through the late night levy. To enable local discretion, the levy will allow licensing authorities to select exemptions or reductions that they consider should apply in their area. It is proposed that the following types of business are available as exemptions for licensing authorities to adopt:

Name	Definition
Premises with overnight accommodation	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to residents for consumption on the premises. This will not exempt hotels and guest houses that serve alcohol to members of the public who are not staying overnight at the premises.
Restaurants	<p>Premises that have condition(s) on their licence that have the effect of making clear their status as restaurants run on a permanent, more formal basis. These could, for example, include conditions which require that, between midnight and 6am:</p> <ul style="list-style-type: none"> (i) customers are shown to their table; (ii) food is provided in the form of substantial table meals that are served and consumed at the table; (iii) premises primarily serve meals to those eating on them, and (iv) alcohol is not be supplied to, or consumed on the premises by, any person other than those who are taking substantial table meals and where the consumption of alcohol by such persons is ancillary to taking such meals.
Theatres and cinemas	Premises at which the sale of alcohol is subject to a condition to the effect that, between midnight and 6am, such sales can only be made to ticket holders or participants in the production for consumption on the premises, when there is otherwise no access to the general public.
Casinos Bingo Halls	Premises licensed to provide facilities for gambling under the Gambling Act 2005 with a membership scheme in operation between midnight and 6am.
Community Amateur Sports Clubs (CASCs)	Those premises that have a relief from business rates by virtue of being a CASC (definition found in Schedule 18 of the Finance Act 2002.)
Community premises	Those premises that have successfully applied for the removal of the mandatory DPS requirement.
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).
Country village pubs	Premises within designated rural settlements with a population of less than 3,000 (as appear in the qualifications for rural rate relief).

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

- Agree
- Disagree

Please give reasons for your answer, specifying any exemptions that you disagree with

Business Improvement Districts

6.02 Business Improvement Districts (BIDs, established under the Local Government Act 2003) are a defined area within which businesses pay a fee in order to fund improvements within their boundaries and can prove valuable to business communities. An increasing number of late night or licensed trade BIDs are being established. Some of these schemes may fulfil the purpose of the levy, by raising contributions towards late night services, without the need for local authority intervention. These schemes should be actively encouraged. It is proposed that licensing authorities are able to grant an exemption to those paying a levy as part of a BID where the authority is satisfied that the aims meet a satisfactory crime and disorder focus.

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

- Agree – licensing authorities should be able to exempt Business Improvements Districts
- Disagree – licensing authorities should not be able to exempt Business Improvement Districts
- Neither agree nor disagree
- Don't know

Members' clubs

6.03 Many private members' clubs operate under 'Club Premises Certificates' (CPCs). Alcohol cannot generally be supplied under a CPC for profit or to the general public. Some licensing authorities may consider that private member's clubs in their area should not make a contribution to late night enforcement costs. Should clubs be exempt from the late night levy, the police revenue in the average licensing authority area from the levy will be reduced by approximately 10%.

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

- Yes
- No
- Don't know

Please give reasons for your answer

Small Business Rate Relief

6.04 Small Business Rate Relief offers business ratepayers that meet certain criteria the opportunity to receive reductions on their rates bills. The criteria vary slightly in England and Wales but, in general, businesses are typically eligible if they occupy only one property and their rateable value is below a certain level. This may apply, for example, to small local pubs.

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

Please give reasons for your answer

New Year’s Eve

- 6.05 Some premises may have a one-off late night authorisation on their licence to celebrate the New Year. On the one hand, it could be argued that the ability to host one-off special occasions will not be hindered by the late night levy. Before the levy begins in any area, premises will be able to make a free minor variation to their licence to reduce their hours. On special occasions, they may use a TEN to authorise the sale of alcohol.
- 6.06 On the other hand, an exemption for those premises whose only late night authorisation is for New Year will benefit many premises.

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year’s Eve?

- Agree – there should be an exemption for New Year’s Eve
- Disagree - there should not be an exemption for New Year’s Eve
- Neither agree nor disagree
- Don’t know

Reductions for best practice schemes

6.07 Licensing authorities may also wish to use the late night levy to promote and support participation in other business-led best practice schemes. These schemes encourage businesses to join together to address some of the negative effects of selling alcohol. The following schemes are recommended as available reduction categories:

Members of a locally accredited Best Bar None scheme
Members of a locally accredited Pubwatch, Clubwatch or Shopwatch scheme. The discount can only apply to one of the above three schemes. Criteria to be an applicable pubwatch scheme:
<ul style="list-style-type: none"> • The local authority is satisfied that the scheme has clear aims and objectives which are subject to a formal statement of intent or a constitution and that it has demonstrated that its members are actively working to reduce crime and disorder. • Membership is open to all licensed premises within the geographic area. • The scheme has a Chair person and/or Coordinator who is responsible for maintaining verifiable records of membership.
Those premises which pay an annual individual contribution to a Community Alcohol Partnership in their area. This definition does not include subsidiaries of companies that pay a contribution on a national level.
Premises that pay a levy in a Business Improvement District (established under the Local Government Act 2003) where the authority is satisfied that the aims meet a satisfactory crime and disorder focus

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Other local best-practice schemes

6.08 The best practice schemes referred to in Question 11 are locally accredited schemes that are part of a national network. It has been suggested that some schemes have been created locally without any national accreditation. Groups of businesses may join together and fund late night services or address specific community problems. Regulations could grant licensing authorities the power to give discounts to schemes that they recognise as effective. Schemes would have to meet readily recognised and measurable benchmarks in order to be capable of qualifying for a discount.

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

6.09 We propose that there is a 10% discount to the levy for every relevant best practice scheme (up to a maximum of 30%). This is in recognition that many businesses are members of multiple schemes.

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

6.10 There may be other types of premises that should not be required to contribute fully towards the levy, for example, community-run pubs or others with an established community and social character.

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

- Yes
- No

If yes, please state what you think these should be and how this type of premises should be defined.

7. LICENSING AUTHORITY LEVY REVENUE

7.01 There are many different types of local authority-funded services which make the late night economy a more welcoming place to do business. Some examples include taxi marshals, late night town wardens and street cleaning services. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. This section considers whether there should be any restrictions on how authorities spend this money.

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

Restrictions on funded activities

7.02 It is intended that the proportion of net levy revenue retained by licensing authorities (a

maximum of 30%) is used to fund services which tackle alcohol-related crime and disorder, such as taxi marshalling and ‘booze buses’ that provide assistance to those who otherwise might become victims or offenders. This would not extend to the wider management of the night time economy. For example, it would include the clean-up of the after-effects of alcohol-related crime and disorder, such as broken glass and public urination, but not general clean-up activities, such as the collection of waste from outside fast food restaurants

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

Please state whether you think the types of services should be limited to preventing and tackling alcohol related crime and disorder; or should extend to both preventing and tackling alcohol related crime and disorder and management of night time economy?

8. IMPACT ASSESSMENT

8.01 An Impact Assessment for late night levy secondary legislation is attached. Consultation respondents are encouraged to comment on this document.

CONSULTATION QUESTION 17:

If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 18:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

9. ABOUT YOU

9.01 Please indicate in what capacity you are responding to this consultation:

- Licensing authority
- Member of the public
- Police officer
- Person involved in licensed trade/club premises
- Other please specify

Police officers only: Which Police Force are you from?

9.02 Licensed trade only: Please tick one of the following boxes which would best describe you/ your organisation

- Individual
- Members’ Clubs
- Micro company (1 – 9 employees)
- Small business (10-49 employees)
- Small – medium enterprise (50-249 employees)
- Large company (over 250 employees)

Licensing officer only: Which Licensing Authority are you from?

Member of the public/Other only: Which Local Authority or London Borough are you from?

10. CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 [FOIA], the Data Protection Act 1998 [DPA] and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under

the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

GOVERNMENT CODE OF PRACTICE ON CONSULTATION

The Consultation follows the Government's Code of Practice on Consultation the criteria for which are set out below:

Criterion 1 – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office consultation co-ordinator, Adam Mcardle. Please DO NOT send your response to this consultation to Adam Mcardle. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation. The co-ordinator can be emailed at: Adam.Mcardle2@homeoffice.gsi.gov.uk or alternatively you can write to him at:

Adam Mcardle, Consultation Coordinator
Home Office
Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

11. CHECKLIST

CONSULTATION QUESTION 1:

Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO?

CONSULTATION QUESTION 2:

The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve?

CONSULTATION QUESTION 3:

Do you agree or disagree that the categories of premises above should be exempt from EMROs?

CONSULTATION QUESTION 4:

Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs?

CONSULTATION QUESTION 5:

Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area?

CONSULTATION QUESTION 6:

Do you agree or disagree that licensing authorities should be able to exempt these premises from the levy?

CONSULTATION QUESTION 7:

Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy?

CONSULTATION QUESTION 8:

Do you think that premises operating under a club premises certificate should be exempt from the late night levy?

CONSULTATION QUESTION 9:

What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief?

CONSULTATION QUESTION 10:

Do you agree or disagree that there should be an exemption for New Year's Eve?

CONSULTATION QUESTION 11:

Do you agree or disagree that licensing authorities should be able to ask for a reduced levy payment from these businesses?

CONSULTATION QUESTION 12:

Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?

CONSULTATION QUESTION 13:

Do you agree or disagree with this set-up of cumulative discounts?

CONSULTATION QUESTION 14:

Should there be scope for further exemptions and reductions from the late night levy?

CONSULTATION QUESTION 15:

What activities do you think licensing authorities should be able to fund with their retained proportion?

CONSULTATION QUESTION 16:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 17:

What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?

CONSULTATION QUESTION 18:

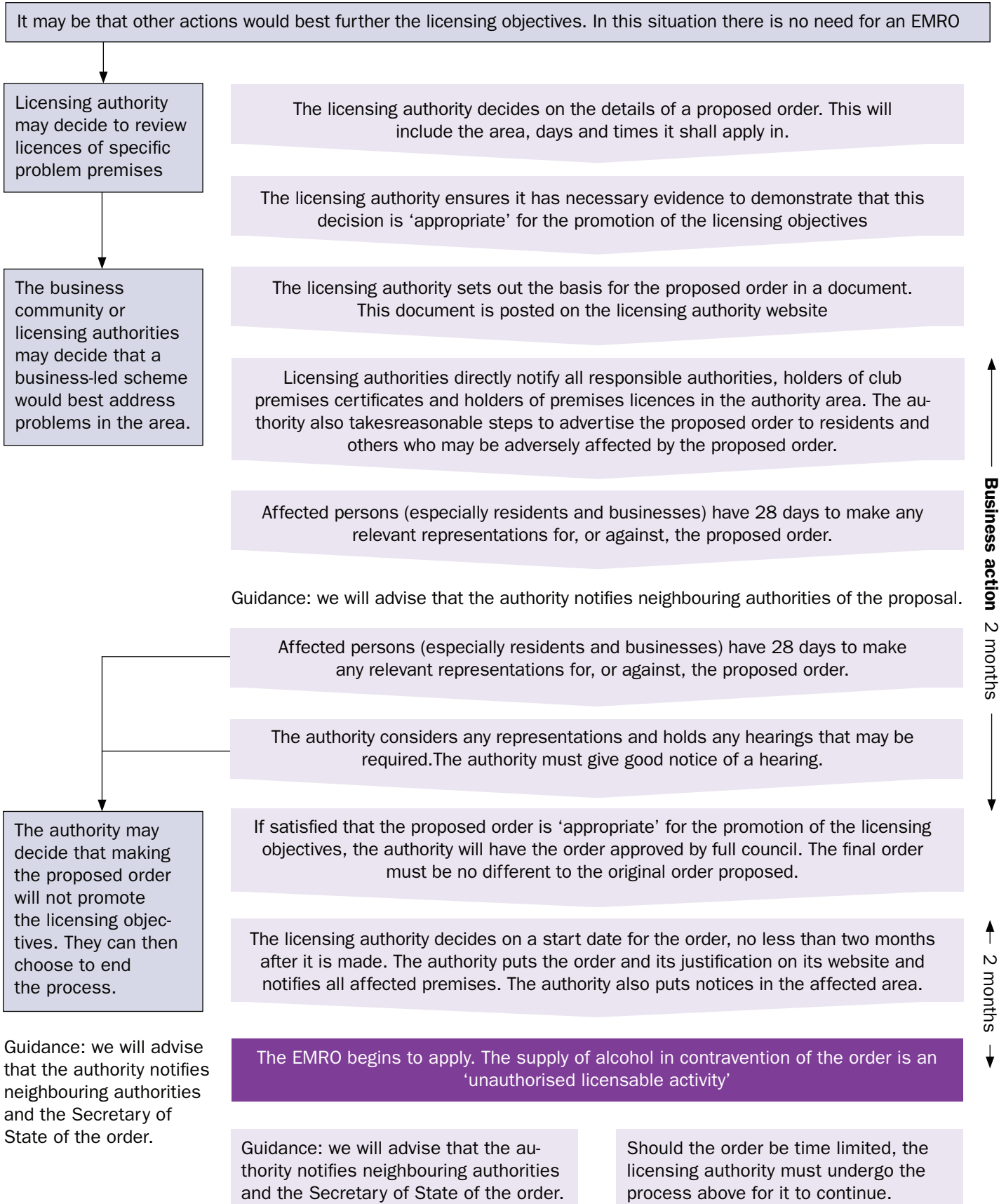
If you have any comments on the Impact Assessment, please detail them here?

CONSULTATION QUESTION 19:

If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?

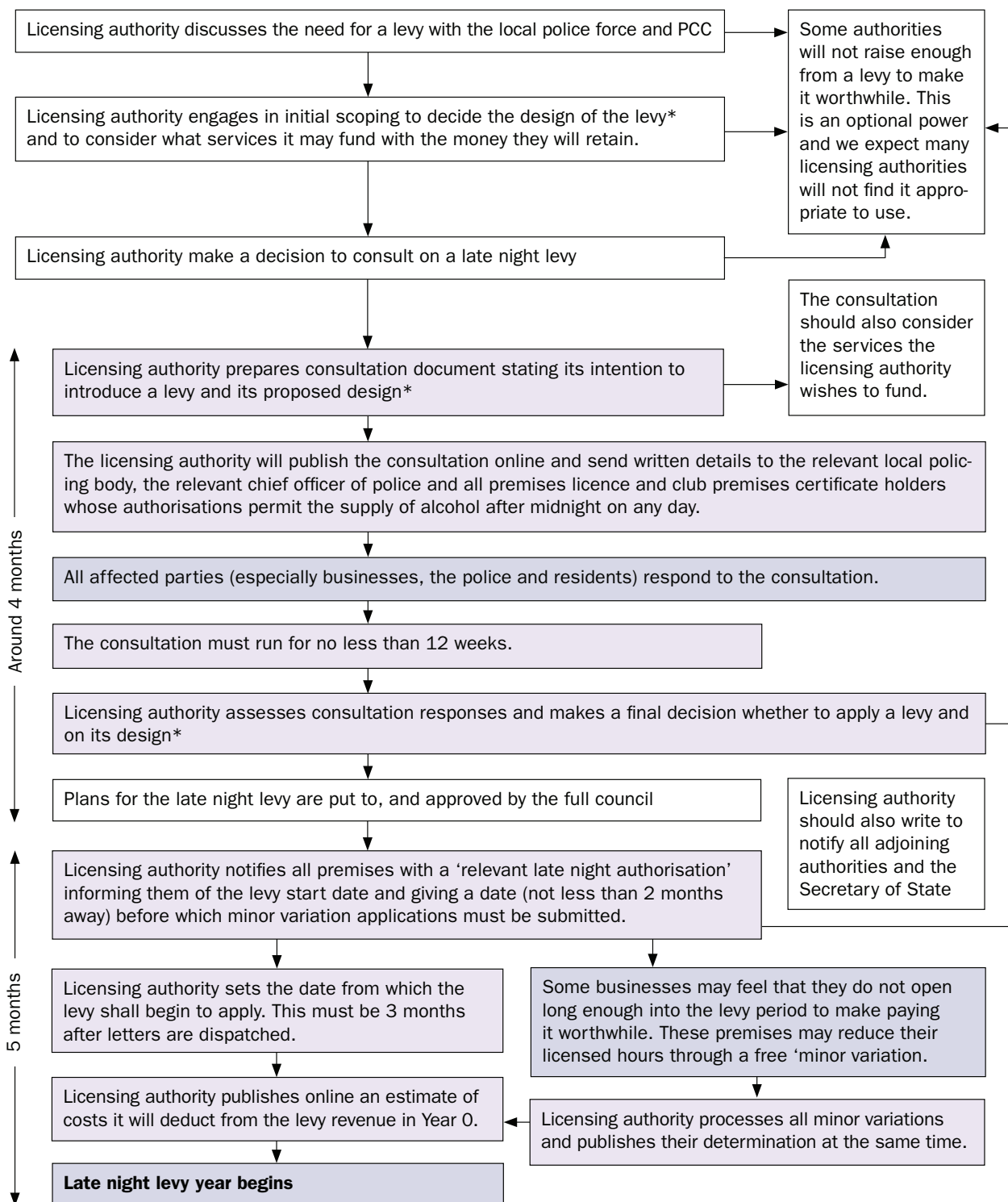
ANNEX A - EMRO PROCESS MAP

A situation arises where there is need to restrict the late night supply of alcohol in a particular area. The licensing authority can decide, possibly at the suggestion of the public or the PCC, to make an EMRO.

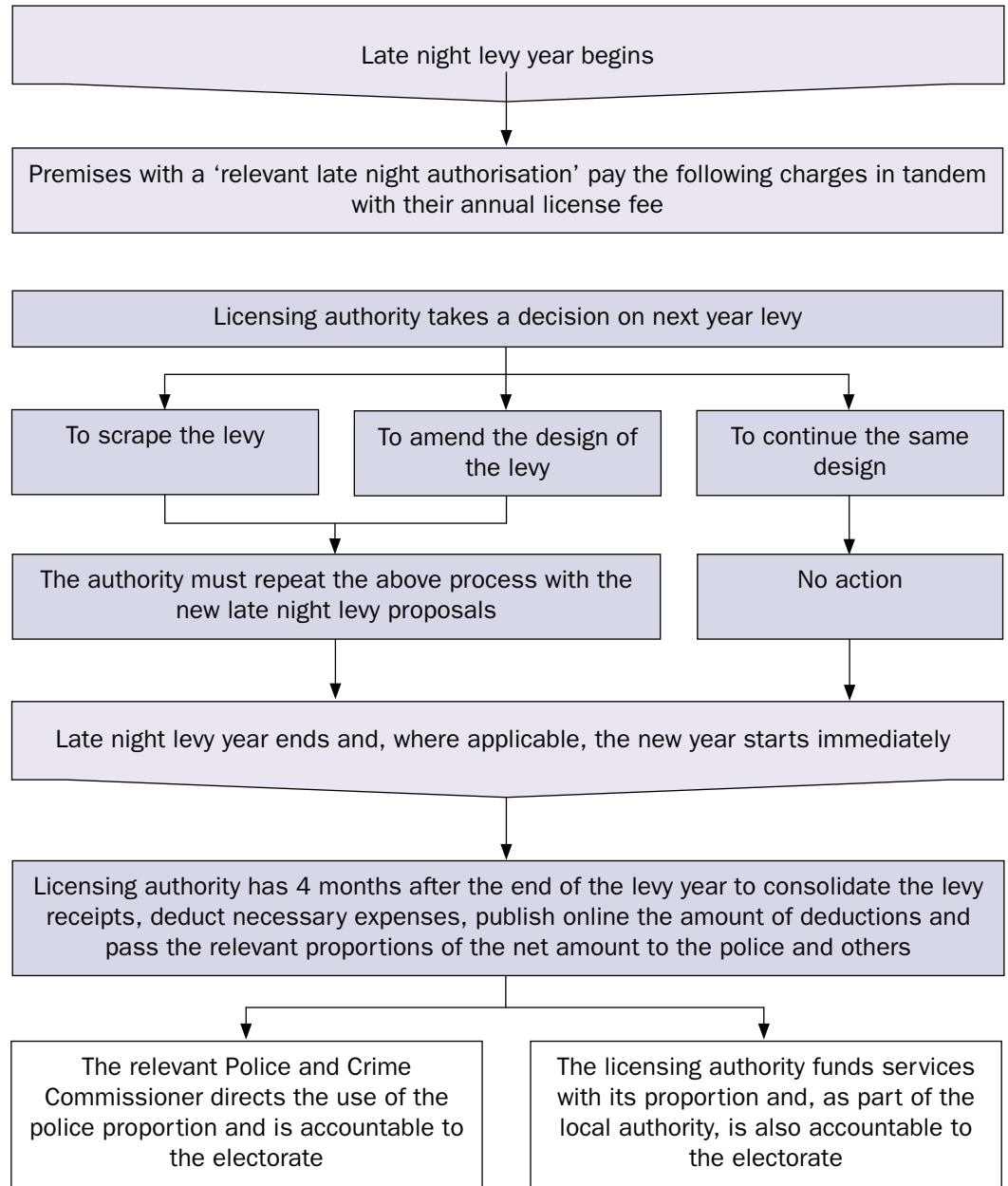


ANNEX B - LATE NIGHT LEVY PROCESS MAPS - (Part I - Introduction)

Essential processes which will be deductible from levy revenue	<p>'late night supply period'- This is the time period where the levy applies. The licensing authority chooses this period but it must be within the window of midnight and 6am.</p> <p>'relevant late night authorisation'- a licence or certificate which permits the supply of alcohol within the 'late night supply period'</p>
Key stages for business	<p>*The levy design - is the licensing authority's choice of the 'late night supply period', any exemptions or reductions that apply and the proportion of the revenue (after administrative costs are deducted) which the licensing authority wishes to keep to fund other activities (max 30%).</p>



ANNEX B - LATE NIGHT LEVY PROCESS MAPS CONTINUED - (Part II - Levy year)





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<http://www.homeoffice.gov.uk/about-us/consultations/late-night-drinking>

Lancaster City Council suggested responses to Home Office Consultation – Dealing with the problems of late night drinking

<p>Consultation Question 1:</p> <p>Do you think that the proposed processes for Early Morning Restriction Orders include sufficient consultation with those likely to be affected by an EMRO? Yes No Don't know</p> <p>If no, please explain what else is needed</p>	<p>Yes</p>
<p>Consultation Question 2:</p> <p>The government proposes that EMROs will not apply (i.e. will not restrict alcohol sales) between midnight on 31st December and 6am on 1st January of each year. Do you think that EMROs should apply on New Year's Eve? Yes – the EMRO should apply on New Year's Eve No– the EMRO should not apply on New Year's Eve Neither agree nor disagree Don't know</p> <p>Please give reasons for your answer</p>	<p>Yes the EMRO should apply on New years Eve.</p> <p>Reason – If the licensing authority after full consultation has found that there is a need to implement an EMRO in a particular area, there is no reason to relax that requirement on any specific date. A licensing authority would not consider the introduction of an EMRO lightly and it would be used as a last resort when other methods have not worked in order to promote the licensing objectives, therefore the EMRO should remain in place on New Years Eve</p>
<p>Consultation Question 3:</p> <p>Do you agree or disagree that the categories of premises above (premises with overnight accommodation, theatres and cinemas, community premises, and casinos and bingo halls with a membership scheme), should be exempt from EMROs? Agree – these categories of premises should be exempt from EMROs Disagree – these categories of premises should not be exempt from EMROs Neither agree nor disagree Don't know</p> <p>Please give reasons for your answer, specifying any exemptions that you disagree with</p>	<p>Agree. These category of premises do not generally contribute to the anti social behaviour linked to the late night economy, and therefore should not be subject to these types of restrictions..</p>

Lancaster City Council suggested responses to Home Office Consultation – Dealing with the problems of late night drinking

	<p>No</p>
<p>Consultation Question 4: Do you have any other suggestions on the types of premises that should be considered for an exemption from EMROs? Yes No Don't know If yes, please specify which other types of premises and give reasons.</p>	
<p>Consultation Question 5: Do you think that there should be an option for local residents/ community groups to recommend the implementation of the levy in their area? Yes No Don't know If yes, do you have any suggestions on how this process should operate?</p>	<p>No</p>
<p>Consultation Question 6: Do you agree or disagree that licensing authorities should be able to exempt these premises (premises with overnight accommodation, restaurants, theatres, cinemas, casinos, bingo halls, community amateur sports clubs, community premises, and country village pubs) from the levy? Agree Disagree Please give reasons for your answer, specifying any exemptions that you disagree with</p>	<p>Agree as these types of premises would not benefit from the policing of the late night economy.</p>
<p>Consultation Question 7: Do you agree or disagree that licensing authorities should be able to exempt Business Improvement Districts from the late night levy? Agree – licensing authorities should be able to exempt</p>	<p>Agree – licensing authorities should be able to exempt Business Improvement Districts</p>

Lancaster City Council suggested responses to Home Office Consultation – Dealing with the problems of late night drinking

<p>Business Improvements Districts Disagree – licensing authorities should not be able to exempt Business Improvement Districts Neither agree nor disagree Don't know</p>	
<p>Consultation Question 8: Do you think that premises operating under a club premises certificate should be exempt from the late night levy? Yes No Don't know Please give reasons for your answer</p>	<p>No. People are just as capable of consuming too much alcohol and contributing to the problems and anti social behaviour that would require extra policing in a members' club as they would be in any other premise.</p>
<p>Consultation Question 9: What are your views on affording a reduction from the late night levy to businesses that receive small business rate relief? Please give reasons for your answer</p>	<p>The late night levy could potentially cripple small businesses and could be harmful to an already diminishing trade. If individual premises are causing problems, they should be targeted on an individual basis. It is unfair to expect responsible licence holders to pay for the actions of irresponsible licence holders. It shouldn't be a requirement that a premise receives small business relief; the levy should not be applied across the board, it should only be applied to the premises that are causing or contributing to the problem.</p>
<p>Consultation Question 10: Do you agree or disagree that there should be an exemption for New Year's Eve? Agree – there should be an exemption for New Year's Eve Disagree - there should not be an exemption for New Year's Eve Neither agree nor disagree Don't know</p>	<p>Yes there should be an exemption as some premises may only stay open late that one night per year, and this should not then mean that they have to pay the levy.</p>
<p>Consultation Question 11: Do you agree or disagree that licensing authorities should be</p>	<p>Agree</p>

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<p>able to ask for a reduced levy payment from these businesses (Members of a Best Bar None scheme, members of Pubwatch etc, those who subscribe to Community Alcohol Partnership or pay a levy in a Business Improvement District) ?</p> <p>Agree Disagree Neither agree nor disagree Don't know</p>	
<p>Consultation Question 12:</p> <p>Do you have any suggestions for benchmarks that can be applied to grassroots schemes to ensure members are actively working to reduce crime and disorder?</p>	<p>No</p>
<p>Consultation Question 13:</p> <p>Do you agree or disagree with this set-up of cumulative discounts?</p> <p>Agree Disagree Neither agree nor disagree Don't know</p>	<p>Disagree as this would be too difficult to administer. If there is going to be a reduction applied, it should be a one-off standard reduction.</p>
<p>Consultation Question 14:</p> <p>Should there be scope for further exemptions and reductions from the late night levy?</p> <p>Yes No</p> <p>If yes, please state what you think these should be and how this type of premises should be defined.</p>	<p>Yes. The introduction of a Late Night Levy is going to be an administrative nightmare that will be harmful to the trade as a whole. It would seem preferable for individual premises that are contributing to the problems surrounding the late night economy should be dealt with on an individual basis, rather than a blanket levy being applied to the whole district.</p>
<p>Consultation Question 15:</p> <p>What activities do you think licensing authorities should be able to fund with their retained proportion?</p>	<p>Taxi Marshalling. Street Cleansing. Safety Campaigns.</p>
<p>Consultation Question 16:</p> <p>What restrictions do you think there should be on the types of services that licensing authorities will be able to fund?</p>	<p>The types of services should not be limited to preventing and tackling alcohol related crime and disorder; they should extend to both preventing and tackling alcohol related crime and disorder and</p>

Lancaster City Council suggested responses to Home Office Consultation – Dealing with the problems of late night drinking

management of night time economy.	
None	<p>Consultation Question 17: If you have any comments on the Impact Assessment, please detail them here?</p>
This is impossible to predict at this time.	<p>Consultation Question 18: If you are responding on behalf of a licensing authority, how many premises do you expect will be affected by EMROs in your area?</p>