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**Report of: Assistant Director Community Services**

**Relevant Managing Director: Managing Director (People and Places)**

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**SUBJECT: LICENSING ACT 2003 – NIGHT TIME LICENSING OPTIONS**

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Wards affected: Borough wide

## **1.0 PURPOSE OF REPORT**

- 1.1 To provide Members with options and an action plan to address concerns regarding night time antisocial behaviour in the Borough, including Ormskirk town centre.

## **2.0 RECOMMENDATIONS**

- 2.1 That the Licensing and Gambling Committee identify those options stated in paragraph 4.3 and the associated action plan provided at Appendix 2 it considers appropriate.
- 2.2 That the Assistant Director Community Services be instructed to implement the chosen options as a result of the recommendation at paragraph 2.1.

## **3.0 BACKGROUND**

- 3.1 Members will recall the report of the 4 February 2014 regarding a proposed Early Morning Restriction Order (EMRO). Following significant debate, this Committee resolved not to proceed with the proposed EMRO as detailed in the resolution of this Committee on 30 July 2013. In reaching this decision, this Committee instructed the Assistant Director Community Services to:

- Provide detailed information to this Committee regarding the options outlined in the report of 4 February 2014;
- Write to the Home Office outlining Member's concerns regarding the EMRO adoption process. (A letter was duly sent to the Home Office on 28 February 2014. Members will be informed of the reply).

3.2 In preparing the options and action plan attached at Appendix 2 to this report, the following have been consulted:

- Ormskirk Residents Group
- Lancashire Constabulary – local police and licensing unit
- Edge Hill University (EHU) and Student Union
- Hartlepool Council Licensing Service
- Charnwood Borough Council Licensing Service
- Loughborough University

3.3 Cabinet have also approved one-off funding of £10k to assist in the delivery of the options detailed in this report.

#### **4.0 OPTIONS**

4.1 Not all of the options detailed below can be implemented and/or sustained for any significant period within the provided funding. Members are therefore requested to choose those options which are considered appropriate.

4.2 Members' attention is drawn to the remit of this Committee under the Licensing Act 2003 (the 2003 Act). In the development of these options, it is apparent that the implications of some options are beyond the remit of this Committee, and are identified as such. If Members are supportive of such an option, it can be endorsed, but it may also require further consideration by full Council, Cabinet, the Licensing and Appeals Committee and/or the Community Safety Partnership. There is also significant cross over with the responsibilities of EHU and the Ormskirk Town Centre Task and Time Group, which should be recognised by the Committee.

4.3 The available options are:

- *Review of the Council's Licensing Policy*  
Whilst a statutory review of the Council's Licensing Policy is not currently required until 2016, it would be prudent to amend the Policy during 2014/15 to reflect the current legislative position so as to provide information on the available controls. Members will be aware that any significant amendment to the Council's Licensing Policy must be subject to a minimum 12 week public consultation. There is no budget to support this consultation and so only the minimum statutory requirements can be met. Funding of £1k would allow more effective communication methods to be adopted in order to raise public awareness of the consultation throughout the Borough.
- *Review of the Council's Licensing Service web pages*

Members will be aware that a new content management system is currently being implemented to improve the look and functionality of the Council's website. The Licensing Service webpages can be reviewed during 2014/15 to provide improved information on the available controls under the 2003 Act. No additional resources are required to implement this option.

- *Review of licensing fees*

Members will note a separate report regarding a current Home Office consultation to reform the fee structure under the 2003 Act. If the Government were to adopt these proposals, this would allow fees to be calculated so that higher fees are paid by those premises operating late at night and/or principally supplying alcohol. The calculation and allocation of fees must be transparent and used to administer and monitor the licensing regime. Accordingly, fees could be used to improve the number and frequency of compliance inspections of licensed premises without further additional resources.

- *Voluntary reduction in licensed hours in relevant premises*

Members raised this issue during the debate on 4 February 2014, as it had been identified that some local authorities had facilitated a voluntary reduction in licensed hours within relevant businesses. However, investigations have revealed that such agreements had been reached in those areas where a number of licensed premises had operated beyond 04:00 and the expense of operating those businesses until that time was not offset by income. This does not currently appear to be the case within the Borough. A voluntary agreement can be breached at any time, and so without an economic pressure to reduce licensed hours, it is unlikely to occur.

- *Encouraging business lead initiatives including Best Bar None and the Purple Flag Scheme*

Whilst supportive of the ideology, Lancashire Constabulary are unable to facilitate and fund the significant coordination required to introduce and sustain the Best Bar None initiative. Accordingly, the Licensing Service would require a staff resource to promote, facilitate and coordinate this scheme, costing approx. £10k per annum. However, Members will be aware that there has previously been little interest in this scheme within the licensed trade in the Borough. There also appears to be no public demand or pressure in the Borough that would generate the necessary competition between licensed premises that would allow the Best Bar None scheme to develop. This option is therefore not recommended at this time.

The Purple Flag scheme aims to create and maintain a safe and clean town centre environment in partnership with local businesses and organisations, transport operators and Council services. The even greater resources and coordination required to implement this option are much wider than the remit of this Committee. Accordingly, if Members are supportive of this scheme, the matter would need to be presented to DSH (for identification of the resources required across services areas) and full Council.

- *Taxi marshals*

Whilst Private Hire Operator offices (predominantly within Ormskirk town centre) employ methods of marshalling customers at peak times, a similar provision is not made at the Hackney Carriage ranks in Ormskirk town centre. As a means to control customers and facilitate their transport away from the town centre, marshals could be posted at peak times during the night. To provide 2 marshals for 4 nights per week (4 hours per night) would cost approx. £500 per week. This equates to approx. £24k per annum, so the available funding could only provide a limited pilot scheme. If Members are supportive of this option, the matter should be presented to the Licensing and Appeals Committee for approval, as it has the appropriate delegation to determine matters of taxi management policy in the Borough.

- *Development of initiatives with EHU*

Based on experiences to address similar issues at Loughborough University, it appears that additional community liaison initiatives funded and operated by that university have helped to address concerns of potential noise and disturbance from student activity. Such initiatives include:

- i. Use of Community Wardens who respond to and deal with transient noise issues in the vicinity of the university and also to conduct follow up visits to students and residents regarding reported noise issues – including multi agency visits as needed;
- ii. Use of Security Officers who respond to residents experiencing noise / or antisocial behaviour in the Community and conduct general patrols. Officers are able to intervene and take action – either through university powers or by contacting the police;
- iii. A single contact within the university to respond to public concerns;
- iv. Improved communication in the locality - including information for students living in residential areas and a Community Newsletter incorporating key contacts at the university;
- v. Formal disciplinary procedure for students involved in noisy parties in residential premises;
- vi. Introduction of data sharing agreements with relevant agencies to ensure awareness of complaints;
- vii. A night time bus service for students – potentially utilising Section 106 monies. (For example, operating between EHU and Ormskirk town centre until approx. 03:00 using designated stops).

The issues detailed above are beyond the licensing remit of this Committee. If Members are supportive of this approach, a formal request could be made to EHU and/or the Community Safety Partnership seeking a response to these issues. Members may also consider offering any or all of the available £10k as match funding for this purpose.

- Improved taxi facilities at EHU

Discussions have already taken place with EHU and the Student Union to review taxi provision at the campus and to examine the feasibility of providing a low cost taxi scheme between EHU and Ormskirk town centre. EHU aim to organise this scheme with the support of the Licensing Service, and so there would be no additional resource requirements.

- *Improved liaison between the licensed trade and the community*  
It is proposed that a representative of the licensed trade in Ormskirk attend the routine Ormskirk town centre Task and Time meetings. Lancashire Constabulary are supportive and would facilitate a suitable representative to attend the meetings. No additional resources would be required.
- *Provision of temporary public toilet facilities in Ormskirk town centre*  
This option has been suggested by Ormskirk Residents Group. Two self-contained public conveniences would cost approx. £500 per day (including transport and cleansing/disposal). By way of example, if such facilities were provided two days per week, this equates to approx. £48k per annum and so the available funding could only provide a limited pilot scheme. The location of such facilities would also need to be carefully considered to address any potential implications for noise and/or disturbance.
- *Cumulative Impact Policy*  
A cumulative impact policy can be put in place in a particular area where unacceptable levels of crime, disorder or public nuisance have been identified. Such a policy specifies that applications for the grant or variation of certain types of licensed premises will normally be refused if representations are received unless the applicant demonstrates in their operating schedule that there will be no adverse impact on one or more of the licensing objectives.

The evidential requirements are similar to an EMRO and there would be similar financial and staff resource implications for the Council to consider and adopt such a policy. Furthermore, the Council's Licensing Policy would need to be reviewed and implemented before a cumulative impact policy could be considered. Counsel Advice is also essential prior to any preparatory work to ensure the current available data would withstand the scrutiny required to implement such a policy. Counsel Advice would be approx. £2k and a further report would be required to outline the implications.

- *Night time economy study*  
A study could be commissioned to fully and independently ascertain the issues in the Ormskirk area. This option would have financial and staff resources for the Council to commission and interpret the findings of such a study. A basic study would cost approx. £5k.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 The 2003 Act has the potential to impact upon the Community Strategy. The contents of this report have the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 The financial implications of each of the options are detailed in this report.

## **8.0 RISK ASSESSMENT**

8.1 The Council is not under an obligation to introduce the options contained in this report. However, concerns regarding antisocial behaviour are not solely linked to issues that can be addressed by licensing controls. Members must therefore be mindful of the remit of this Committee when considering this report.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

- 1 Equality Impact Assessment.
- 2 Night time licensing options action plan