



**Gwasanaeth Democraidd**  
**Democratic Service**  
Swyddfa'r Cyngor  
CAERNARFON  
Gwynedd  
LL55 1SH

Cyfarfod / Meeting

**PWYLLGOR TRWYDDEDU CANOLOG**  
**CENTRAL LICENSING COMMITTEE**

Dyddiad ac Amser / Date and Time

**10:00a.m., DYDD LLUN, 10 RHAGFYR 2012**

**10:00a.m., MONDAY, 10 DECEMBER 2012**

Lleoliad / Location

**SIAMBR ARFON/CHAMBER,**  
**SWYDDFEYDD Y CYNGOR/COUNCIL OFFICES,**

**PENRALLT,**

**CAERNARFON**

Pwynt Cyswllt / Contact Point

**GWYN PARRY WILLIAMS**

**(01286) 679665**

[gwynparrywilliams@gwynedd.gov.uk](mailto:gwynparrywilliams@gwynedd.gov.uk)

Dosbarthwyd / Distributed 30.11.12

**PWYLLGOR TRWYDDEDU CANOLOG**

**CENTRAL LICENSING COMMITTEE**

**Aelodaeth/Membership (15)**

**Plaid Cymru (7)**

Y Cynghorwyr/Councillors

Eddie Dogan      Huw Edwards

Annwen Hughes      Chris Hughes

W. Tudor Owen      Ann Williams

Gethin G. Williams

**Annibynnol/Independent (4)**

Y Cynghorwyr/Councillors

Eryl Jones-Williams      Christopher O'Neal

Angela Russell      Elfed Williams

**Llais Gwynedd (4)**

Y Cynghorwyr/Councillors

John Brynmor Hughes      Llywarch Bowen Jones

Peter Read      Gruffydd Williams

**Aelod Ex-officio/Ex-officio Member**

Cadeirydd y Cyngor/Chairman of the Council

# AGENDA

## 1. APOLOGIES

To receive any apologies for absence.

## 2. DECLARATION OF PERSONAL CONNECTION

To receive any declaration of personal interest.

## 3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

## 4. MINUTES

The Chairman shall propose that the minutes of the meeting of this Committee, held on 17 September 2012, be signed as a true record.  
(copy herewith – **white** enclosure)

## 5. LICENSING SUB-COMMITTEE MINUTES

To submit, for information, minutes of the Licensing Sub-committee meetings held on the following dates:-

- (a) 18 October 2012
- (b) 22 October 2012
- (c) 20 November 2012

(copy herewith – **green** enclosures)

## 6. NEW LICENSING POWERS – EARLY MORNING ALCOHOL RESTRICTIONS ORDERS

To submit the report of the Head of Regulatory Department  
(copy herewith – **gold** paper)

## 7. NEW LICENSING POWERS – THE LATE NIGHT LEVY

To submit the report of the Head of Regulatory Department  
(copy herewith – **blue** paper)

## 8. REVIEW OF THE STATEMENT OF LICENSING POLICY

To submit the report of the Head of Regulatory Department  
(copy herewith – **yellow** paper)

---

## CENTRAL LICENSING COMMITTEE, 17.09.12

---

**Present:** Councillor W.Tudor Owen (Chairman)

Councillors: Eddie Dogan, Annwen Hughes, Chris Hughes, John Brynmor Hughes, Llywarch Bowen Jones, Eryl Jones-Williams, Christopher O'Neal, Peter Read, Angela Russell, Ann Williams, Elfed W. Williams, Gethin G. Williams, Gruffydd Williams

**Also Present:** Siôn Huws (Compliance and Language Manager), Gwenan M. Williams (Licensing Manager), Sheryl Le Bon Jones (Operational Systems Manager) and Gwyn Parry Williams (Members Support and Scrutiny Officer)

**Apologies:** Councillor Huw Edwards

### 1. DECLARATION OF PERSONAL INTEREST

Councillor Christopher O'Neal noted that he had worked for Chubb Taxis, Bangor previously.

### 2. MINUTES

The Chairman signed the minutes of the previous meeting of this committee held on 25 June 2012 as a true record.

### 3. MINUTES OF THE CENTRAL LICENSING SUB-COMMITTEES

Submitted, for information - the minutes of the following meetings of the Central Licensing Sub-committee:-

- a) 23 and 27 July 2012
- b) 1 August 2012

In relation to the application by The Venue, Pavilion Buildings, Barmouth that had been considered by the sub-committee on 27 July 2012, the local member asked to add to the record that he supported the observations made by the police on the application.

**RESOLVED to accept the information.**

### 4. REVIEW ARRANGEMENTS FOR MAKING REPRESENTATIONS ON APPLICATIONS FOR A PREMISES LICENCE

Submitted – the report of the Head of the Regulatory Department on reviewing the arrangements for making representations on applications for a premises licence.

The Licensing Manager reported that this report was submitted at the request of Councillor Eryl Jones Williams.

The officer noted that there had been several examples recently of premises licence applications being referred to the Central Licensing Sub-committee for a decision because of correspondence received from community/town Councils objecting to the applications.

When an application to vary, review or permit a premises licence was submitted to the Licensing Authority, the procedure in accordance with the guidelines issued under section 182 of the Licensing Act 2003 was followed. If an application was submitted in a proper, correct and complete manner, it was not required to refer the application for a decision to a hearing of the sub-committee unless relevant observations or objections had been received from a responsible authority or any other person. In these cases, the Licensing Authority's officers may permit applications in accordance with what was requested; and in accordance with the conditions that were relevant to the Operating Schedule and the relevant mandatory conditions of the Licensing Act 2003. If relevant representations were made by a responsible authority or individuals, the Licensing Authority was required to use its discretion to determine whether or not the decision should be referred to a hearing by the sub-committee. To ensure fairness and transparency of the process, applications where observations/objections had been received were usually referred to the Sub-committee.

She noted that the Home Office provided guidance on making representations in respect of premises licence applications in the guidelines made under section 182 of the Licensing Act 2003. Representations made within the consultation period were required to specifically relate to the likely effect of permitting a licence in relation to at least one of the licensing objectives, namely-

- a) Crime and disorder prevention
- b) Public safety
- c) Prevention of public nuisance
- ch) Protection of children from harm

It would be necessary to ensure that an application to review a premises licence was also made in relation to the way the licensable activities undermined at least one of the licensing objectives. Any representations made should be supported with evidence wherever possible for example, evidence of a number of criminal incidents associated with the licensed premises; CCTV images etc. Making representations on an application, or applying for a review of a licence was a serious matter; it was important that they were factually correct. She noted that it was an offence to intentionally make an incorrect statement in relation to an application for a licence; the maximum fine following a summary conviction was £5,000.

She further noted that the Licensing Authority was required to disregard representations if they were frivolous, vexatious or repetitive. When representations were received on applications that did not contain much explanation or supporting evidence, it was very difficult to expect the Council's officers and members of the Sub-committee to determine the validity and significance of the representations in relation to the application.

Any person or responsible authority making representations or objections in respect of an application was invited to attend a hearing of the Sub-committee to support and expand on their representations. If an objector did not take advantage of the opportunity to attend the hearing, the task of considering the significance of the representations was difficult if the evidence base and the relevance to licensing objectives were not obvious. This was the situation this sub-committee had faced on several occasions recently.

She provided details on the different options to consider to ensure the effectiveness of the process of making representations.

A member referred to a number of cases recently where only community/town councils had objected to an application for a licence but they did not have a representative present in the sub-committee when the application had been considered to elaborate on their objection.

The Compliance and Language Manager notified the committee that it was the responsibility of those who submitted the representations to ensure that they were associated with the property in question and relevant to the licensing principles. Perhaps some of the community/town councils did not realise the implications that would accrue from objecting to applications for a license and it was not possible to force them to send representation to the meetings of the sub-committee. Therefore they missed the opportunity to elaborate on their observations.

A member suggested that community/town councils should be encouraged to send representatives to the meetings of the sub-committee when complex or contentious applications were considered. The member also asked whether it would be possible for county councillors who were also members of community/town councils to make representations on their behalf in the meetings of the sub-committee.

In response the Licensing Manager informed the committee that it was evident from the guidelines that consistency was needed when inviting representations etc. She noted that when the letters were sent asking for representations on applications from the different bodies, then it could be noted whether or not they were complex applications.

The Compliance and Language Manager noted that he did not anticipate opposition for county councillors who were also members of community/town councils to make representations on their behalf in the meeting of the sub-committee, but there would be a need to look at the legislation to confirm this.

He also drew attention to the fact that local members had to submit observations in writing on applications before they had the right under the legislation to speak in the sub-committee.

A member supported the suggestion to hold a training session for the community/town councils.

In response the Licensing Manager was of the opinion that the first step would be to send a letter to the community/town council clerks on the matter with guidelines on making representations on applications and that further consideration should be given to the need for training.

The Compliance and Language Manager referred to the annual meetings that were arranged with representatives of the community/town councils and he suggested that training could be presented in those meetings.

**RESOLVED**

- a) To send letters to community/town council clerks and the county councillors on the matter, with guidelines on making representations in respect of applications**
- b) To send a specific form for recording reasons for objecting or providing observations on an application to community/town councils and the county councillors or any person or body once they have made representations.**
- c) To further consider the need to hold a training session for the community/town councils.**

The meeting commenced at 10:00am. and concluded at 10.40am.

---

## CENTRAL LICENSING SUB-COMMITTEE, 18.10.12

---

**Present:** Councillor W. Tudor Owen (Chairman)  
Councillors Ann Williams, Elfed Williams

**Also present:** Siôn Huws (Compliance and Language Manager), Gwenan M. Williams (Licensing Manager), Sheryl Le Bon Jones (Operational Systems Manager) and Gwyn Parry Williams (Members Support and Scrutiny Officer)

### **1. APPLICATION TO REVIEW PREMISES LICENCE – KING’S ARMS, 206 HIGH STREET, BANGOR**

**Others invited to the Meeting:**

**Applicant:** Sergeant Bill Coppack (North Wales Police)

**Others representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**Representing King’s Arms, 206, High Street, Bangor:** Mr Alexander Richards (Licensee)

**Local Member:** Councillor Gwynfor Edwards

The report of the Licensing Manager was submitted providing details of the application from North Wales Police to review the licence of the Kings Arms, 206, High Street, Bangor following a specific incident which highlighted that the Designated Premises Supervisor (DPS) and others employed by the business had not been using the CCTV equipment correctly, contrary to the CCTV arrangements condition on the premises licence to ensure compliance with the objectives of the Licensing Act 2003. The police noted that the current condition in relation to CCTV on the premises was insufficient and that the current CCTV system used was also insufficient. The police’s recommendation was that the current condition should be deleted from the licence and an amended condition imposed in relation to the use of CCTV on the premises. No observations were received on the police’s application.

In considering the application, the following procedure was followed:-

- i) The applicant was invited to expand on the application
- ii) Members of the Sub-committee were given an opportunity to ask questions of the applicant.
- iii) The licensee, or his representative, was invited to respond to the observations.
- iv) Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- v) The applicant and licensee, or his representative, were given an opportunity to summarise their case.



On behalf of the police, Sergeant Bill Coppack referred to an incident outside the premises on 17 June 2012 when a young person had been assaulted and injured. The information provided by witnesses had noted that the offender had attempted to gain entry to the premises and should therefore have been caught on the premises' CCTV system. The police investigation revealed that the CCTV cameras had been pointing in the opposite direction and therefore this incident had not been recorded. He noted that the current condition regarding CCTV on the premises licence was inadequate and that the current CCTV system was also inadequate, and that it should be removed and replaced with an amended condition.

He noted that he had visited the premises in the last few days and discovered that the digital CCTV system that had been installed on the premises now complied with the conditions that had been requested. It was understood that the licensee had no objection to the amended condition.

The licensee agreed that the previous CCTV system had not complied with the requirements but he confirmed that the latest system corresponded with what had been requested. He also confirmed that he was satisfied with the condition that the police had recommended.

As the relevant parties had reached an agreement with regards to the amended condition and that no other observations or evidence had been submitted regarding any other problems with the premises, the sub-committee agreed to the review.

**RESOLVED to amend the conditions of the licence by adding the following conditions -**

- a) A digital CCTV system will be installed and will work to such a standard that the Police and Local Authority can monitor both the interior and exterior of the premises.**
- b) Lighting in the location must be of sufficient brightness and quality to identify persons within the premises on the CCTV system.**
- c) The CCTV system will record and retain images of all times when members of the public are on the premises, for a minimum of 31 days.**
- ch) Images will be surrendered on request to the police or local authority at the time the request is made and the premises will ensure that it has the appropriate software available to comply with this condition. If they are unable to comply with this condition the persons responsible for the premises must be aware of the possibility of having the premises licence reviewed.**
- d) There must be a minimum of one trained member of staff available to download evidence at the request of the police or an authorised officer when the premises are open.**
- dd) CCTV warning signs shall be fitted and clearly displayed in public areas of the premises.**
- e) Recordings of incidents must be kept secure for inspection by the police.**

The Compliance and Language Manager reported that he would aim to send a letter within five working days, notifying the applicants of the Sub-committee's decision, and informing them of the right to appeal against the decision within 21 days of receiving that letter.

## **2. APPLICATION TO VARY PREMISES LICENCE – PYRAMID, 215 HIGH STREET, BANGOR**

### **Others invited to the Meeting:**

**Applicant:** Sergeant Bill Coppack (North Wales Police)

**Others representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**Representing Pyramid, 215 High Street, Bangor:** Mr Walid Mohamed Hussein-Fadil (Licensee), Mrs Jan Hussein-Fadil, Ms Kayleigh Edwards and Mr Almir Musto Fo Bani

**Local Member:** Councillor Gwynfor Edwards

The report of the Licensing Manager was submitted providing details of an application from North Wales Police to review the licence of Pyramid, 215, High Street, Bangor as specific incidents of failure to comply with the premises licence conditions were made apparent between June and August 2012; where the Police had attested that customers were being served refreshments later than the opening hours noted on the current licence. Due to these incidents of breach of conditions; the Police had implemented enforcement steps against the licensee and the premises was now on step 2 of the enforcement ladder in order to ensure compliance with the Licensing Act 2003. In response to the incidents of breach of conditions the Police had requested that the premises licence be revoked for a three month period; and in addition for the licence condition to be amended in relation to hours of licensed activity and opening hours. It was recommended that the hours for late night opening and the sales of refreshments be reduced by 30 minutes, for each day of the week. No observations were received on the Police's application but observations were received by the licensee.

In considering the application, the following procedure was followed:-

- i. The applicant was invited to expand on the application
- ii. Members of the Sub-committee were given an opportunity to ask questions of the applicant.
- iii. The licensee, or his representative, was invited to respond to the observations.
- iv. Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- v. The applicant and licensee, or his representative, were given an opportunity to summarise their case.

On behalf of the Police, Sergeant Bill Coppack informed the committee that the licence had been granted earlier this year. He noted that on three occasions, namely 17 June and 20 and 29 July 2012 it had been discovered that the premises was serving customers after the closing time and was therefore in breach of the licence conditions. Consequently, rather than submitting an application for a review immediately, he noted that the police's policy was to consider whether or not an action plan was appropriate. Given that the property had only opened fairly recently and that three incidents of breach of conditions had taken place, it had been decided to implement an action plan that would be equivalent to step 2 of the enforcement ladder. He noted that step 1 was informal whereby the premises would be visited and minor breaches of conditions would be discussed and expected to be corrected. In relation to step 2, this was more formal and involved holding a formal meeting that would be recorded. Implementing an action plan would involve crime and disorder prevention and as the breach of conditions involved the opening hours of the premises an action plan would not be appropriate in this case. In light of this, the application was submitted to review the premises licence. The importance of complying with the conditions was emphasised to the licensee in the step 2 meeting on 2 August 2012 and that the premises should close at 02.00 from Sunday to Tuesday and at 02.30 from Wednesday to Saturday. He referred to the police's visit to the

premises on 27 August 2012 when it had been discovered that customers were being served at 02.20 which was contrary to the conditions of the licence. The police, on the same night, had also discovered that the screens on the windows were partly closed and that customers were being let in and out of the property. Due to all the incidents of breach of conditions he asked for the licence to be revoked for a three month period and the permitted opening hours for sales of late night refreshments to be reduced by 30 minutes, every night of the week. However, he was willing to leave the matter of revoking the licence for a period of three months to the members of the sub-committee to decide if that was appropriate in this case, but he was of the opinion that the hours should be reduced. Should the premises wish to vary the licence back to the current hours following an appropriate period of time, and subject to the premises' compliance with the opening hours and the conditions imposed, the police would consider approving the application to be processed without objection. He acknowledged that it was a difficult time for businesses to succeed but he emphasised once again the need for such establishments in Bangor to comply with the conditions imposed and that they should all close at the same time. In response to a question by the Sub-committee, the Sergeant confirmed that there had been no record of any trouble inside or outside the premises during the hours when the premises were open that were contrary to the conditions of the licence. One incident had taken place but it had happened during official opening hours.

In response to the above, the licensee noted the following observations -

- He had not sold food to customers after the closing time but it was understood that friends of the premises' manager had obtained food there after the closing time and he apologised for this.
- The premises was very busy between 01.00 and 02.30 and he would not be happy for the licence to be revoked for three months or for the hours to be reduced as it would have an impact on the future of his business.
- He had not breached the conditions intentionally and he promised to adhere to them in future. He asked for a second chance.
- There had been good co-operation between himself and the police since the licence was permitted.

Sergeant Bill Coppack further noted that he had received evidence from two of his officers of customers leaving the premises on 27 August 2012 after the closing time with hot food that had been sold there.

The relevant parties left the meeting and the application was discussed by the members of the Sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely:

- Crime and Disorder Prevention
- Public safety
- Public Nuisance Prevention
- Protection of Children from Harm

The Sub-committee was of the opinion that opening the premises contrary to the conditions of the licence was a serious matter and was unacceptable. Nevertheless, consideration was given to the fact that no evidence of trouble in terms of crime and disorder prevention or public nuisance had been raised as a direct result. Consideration was also given to the fact that the licence had been permitted earlier this year along with the licensee's explanation and his pledge that such a situation would not happen again. Therefore, taking everything into consideration, the members were of the opinion that the licence should not be revoked for three months and that the hours should not be reduced, and that the licensee should be given a second chance. However, he should be warned if the conditions of the licence were breached again, then it would be considered to be a very serious matter.

**RESOLVED**

- a) To refuse the police's application.
- b) To continue with the hours noted on the current licence and to give the licensee a second chance and to warn him that should the matter be brought before the Sub-committee again, it would be considered a very serious matter.

The Compliance and Language Manager reported that he would aim to send a letter within five working days, notifying the applicants of the Sub-committee's decision, and informing them of the right to appeal against the decision within 21 days of receiving that letter.

### **3. APPLICATION FOR A VARIATION OF PREMISES LICENCE – DOMINOS PIZZA, WILLIS HALL, HIGH STREET, BANGOR**

#### **Others invited to the Meeting:**

**Representing Dominos Pizza, Willis Hall, High Street, Bangor:** Ms Fiona Hanslow (Area Manager)

**Representing the Police:** Sergeant Bill Coppack and Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**Local Member:** Councillor Gwynfor Edwards

The report of the Licensing Manager was submitted giving details of an application on behalf of Domino's Pizza, Willis Hall, High Street, Bangor to vary its licence to permit extending the opening hours for the sale of late night refreshments from 11.00 until 05.00, every day of the week.

It was reported, following the appropriate consultation period, that the Fire and Rescue Service had no objection to the application. No response had been received from the local member, neighbouring residents or the Public Protection Service. Bangor City Council objected to the application. The police had no objection to the application, since following a discussion with the applicant, it had been agreed to significantly amend the hours requested in the application. In addition to the hours on the current licence, it was now requested to open until 02:30am on Thursday evenings. The police noted that this would not affect home delivery of food in response to telephone orders. An e-mail was received from the Council's Planning Service referring to a specific condition imposed on the planning permission granted to the business. The hours requested in the original application, or the amended hours agreed between the applicant and the police did not comply with the planning condition. The applicant would be required to make a formal application to vary the planning condition in relation to opening hours.

In considering the application, the following procedure was followed:-

- i) Members of the Sub-committee and the applicant were given an opportunity to ask questions of the Licensing Manager.  
»
- ii) The applicant was invited to expand on the application.
- iii) Consultees were given an opportunity to support their observations.
- iv) The licensee, or his representative, was invited to respond to the observations.

- v) Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- vi) <<Members of the Sub-committee were given an opportunity to ask questions of the consultees
- vii) <<The applicant or his representative were given an opportunity to summarise their case.

In supporting the application, the applicant's representative accepted the police's observations to amend the hours to 02.30 on Thursday evenings.

The consultees were invited to support any representations submitted by letter, and Sergeant Bill Coppack reported that it had been agreed to amend the hours to 02.30 on Thursday evenings following a discussion with the applicant.

As the relevant parties had reached an agreement with regard to amending the opening hours on Thursday evenings, and since no further evidence had been submitted to suggest there were any problems with the premises, the members had no objection to the application.

**RESOLVED to approve the variation to the licence of Domino's Pizza, Neuadd Willis, High Street, Bangor, as follows –**

- a) To permit the provision of late night refreshments under paragraph L as follows –**
  - **Sunday to Wednesday – between 23.00 and 01.00 (as in the existing licence)**
  - **Thursday – between 23.00 and 02.30**
  - **Friday and Saturday – between 23.00 and 02.30 (as in the existing licence)**
- b) To permit the premises to be open to the public under paragraph O as follows –**
  - **Sunday to Wednesday – between 07.00 and 01.00 (as in the existing licence)**
  - **Thursday – between 07.00 and 02.30**
  - **Friday and Saturday – between 07.00 and 02.30 (as in the existing licence)**

The Compliance and Language Manager reported that he would aim to send a letter within five working days, notifying the applicants of the Sub-committee's decision, and informing them of the right to appeal against the decision within 21 days of receiving that letter.

The meeting commenced at 10.30am and concluded at 11.50am.

---

## CENTRAL LICENSING SUB-COMMITTEE, 22.10.12

---

**Present:** Councillor W. Tudor Owen (Chairman)  
Councillors Angela Russell, Elfed Williams

**Also present:** Geraint B. Edwards (Solicitor), Gwenan M. Williams (Licensing Manager) and Gwyn Parry Williams (Members' Support and Scrutiny Officer).

### **1. APPLICATION TO REVIEW PREMISES LICENCE – BELLA TAKEAWAY, 8 HOLYHEAD ROAD, BANGOR**

**Others invited to the Meeting:**

**Applicant:** Sergeant Bill Coppack (North Wales Police)

**Others representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**On behalf of Bella Takeaway, 8 Holyhead Road, Bangor:** Mr Talal El-Arab (Licence Holder) and Mr Ahmad Kaugan (Manager)

The report of the Licensing Manager was submitted providing details of an application from North Wales Police to review the licence of Bella Takeaway, 8 Holyhead Road, Bangor as there had been specific incidents of failure to comply with the premises licence conditions between February and August 2012. The Police had witnessed that customers had been served refreshments later than the opening hours noted on the current licence on four occasions. This sub-committee had considered an application on 9 July 2010, by the licence holder to vary the premises licence to provide late night refreshments. Part of the rationale behind the application at the time was the difficulty of clearing the premises in time at the end of the licensed activities. The sub-committee agreed that the hours of the licensed activities had to be limited in accordance with the Police's recommendation, but with an extended period of 15 minutes between the end of the period of licensed activities and the closing time for the premises in order to facilitate the process of closing the shop. The Police were of the opinion that due to the evidence of several breaches of conditions in relation to licensed activities and opening times and this highlighted the confusion because of an additional 15 minutes permitted to close the premises. It was recommended that the hours for licensable activities and opening should be between 23.00 and 02.30 from Monday to Sunday. No observations had been received regarding the Police application but observations in writing had been received from the licence holder and also a telephone call had been received from Councillor June Marshall supporting the Police application.

In considering the application, the following procedure was followed:-

- i. The applicant was invited to expand on the application
- ii) Members of the sub-committee were given an opportunity to ask questions of the applicant.
- iii) The licensee, or his representative, was invited to respond to the observations.
- iv) Members of the sub-committee were given an opportunity to ask questions of the licensee.

- v) The applicant and licensee, or his representative, were given an opportunity to summarise their case.

«

On behalf of the Police, Sergeant Bill Coppack noted that the application before the sub-committee today followed an application for a variation that had been considered by the sub-committee in July 2010. At that time, the Police objected to the application and the objection was supported by the sub-committee. At that meeting, the licence holder had stated that it was difficult to close the shop and the sub-committee decided that the licensed activity should end at 02.30 thus allowing an additional 15 minutes for customers to leave the premises, that is, until 02.45. The officer referred to four occasions, namely 5 February, 10 March, 3 June and 4 August 2012 when it was discovered that the premises had been serving customers after the closing time and therefore it was in breach of the licence conditions. Following a discussion with the manager of the premises, it was found that the 15 minutes permitted for the premises to remain open but not to serve food, caused confusion. In view of this, the sub-committee was requested to vary the licence to permit the premises to open between 23.00 and 02.30 every day of the week, in line with the licence which they had to undertake licensable activities.

In response to the above, the licence holder noted the following observations -

- It was difficult at times to control customers in the premises and some of them did not wish to purchase food. At other times, there were too many people in the premises late at night waiting for food and this was the reason why the door could not be closed at 02.30.
- At times there were no customers in the premises when it closed at 02.30.
- At times, it appeared that the Police concentrated on his premises and he noted that the Police should address other similar premises in Bangor which were open until 03.00.
- He was willing to close the premises at 02.30 if other similar premises closed at the same time.
- He was trying his best to cooperate with the Police and these establishments in Bangor should have the same policy.
- They tried to switch off the lights at the premises at 02.30. He noted that there were no difficulties with customers and therefore there was no need to call the Police.
- Advice had been received from the Police not to submit an application for a time extension over freshers' week.
- He had received information from a Council officer that he had a right to sell food until 02.45 and this had caused him confusion.

In response to some of the above points, Sergeant Coppack informed the sub-committee that it would be possible to impose a condition enforcing the premises to employ door supervisors. He noted that this had been done in similar establishments and it worked but he was aware that this was an additional cost and he did not wish to place great pressure in this direction. In relation to the breach of condition which happened this year, the licence holder could have been prosecuted in court but this was not pursued but rather his attention had been drawn to the matter. With regard to the extension of time over freshers' week, he noted that he had informed the licence holder that the Police would object to any application. No such application had been approved in Upper Bangor during that week. Regarding the observation made about the sale of food until 02.45, he noted that the licence holder and manager of the premises should have known that this was not included in the licence which had been granted.

The Licensing Manager noted that she was unaware of any discussion that had been held between the licence holder and the Licensing Unit regarding the observation made about the sale of refreshments until 02.45.

The relevant parties left the meeting and the application was discussed by the members of the sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely:

- Crime and Disorder Prevention
- Public Safety
- Public Nuisance Prevention
- Protection of Children from Harm

## **RESOLVED**

**a) To approve the Police application to vary the licence to permit the premises to open between 23.00 and 02.30 every day of the week, in line with the licence which they have to undertake licensable activities.**

**b) To suggest to the licence holder to consider employing door supervisors**

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

## **2. APPLICATION TO REVIEW THE PREMISES LICENCE - UNIVERSITY PLAICE, HOLYHEAD ROAD, BANGOR**

### **Others invited to the Meeting:**

**Applicant:** Sergeant Bill Coppack (North Wales Police)

**Others representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**On behalf of University Plaice, Holyhead Road, Bangor:** Mr Mehmet Ali Usal (Licence Holder)

The report of the Licensing Manager was submitted, providing details of an application from North Wales Police to review the licence of University Plaice, Holyhead Road, Bangor as there had been a specific incident of failure to comply with the premises licence conditions on Saturday, 4 August 2012. The Police had witnessed customers being served refreshments later than the opening hours noted on the current licence. This sub-committee had considered an application on 9 July 2010, by the licence holder to vary the licence of the premises to provide late night refreshments. Part of the rationale behind the application at the time was the difficulty of clearing the premises in time at the end of the licensed activities. The sub-committee agreed that the hours of the licensed activities had to be limited in accordance with the Police's recommendation, but with an extended period of 15 minutes between the end of the period of licensed activities and closing time for the premises in order to facilitate the process of closing the shop. The Police was of the opinion that the evidence of breach of conditions regarding the licensable activities and opening times highlighted the confusion due to the additional 15 minutes permitted to close the premises. It was recommended that the hours for licensable activities and opening should be between 23.00 and 02.30 from Monday to Sunday. Observations had been received at the request of the Police from the licence holder noting that he had no objection to the review in principle, provided that the same conditions were enforced consistently for other similar businesses in the locality.

In considering the application, the following procedure was followed:-



- i. The applicant was invited to expand on the application
- ii. Members of the sub-committee were given an opportunity to ask questions of the applicant.
- iii. The licensee, or his representative, was invited to respond to the observations.
- iv. Members of the sub-committee were given an opportunity to ask questions of the licensee.
- v. The applicant and licensee, or his representative, were given an opportunity to summarise their case.

Sergeant Bill Coppack, on behalf of the Police, informed the sub-committee that the premises had a right to licensable activities until 02.30 and the premises were permitted to remain open until 02.45 in an attempt to assist in controlling the process of closing the shop but not for serving food. He referred to one occasion on 4 August 2012, when it had been discovered that the premises had been serving customers after the closing time, that is at 02.30 and therefore in breach of the licence conditions. This had been discussed with the licence holder and it was apparent that the licence conditions had caused confusion as he was under the impression that he had a right to operate legally until 02.45. In view of this, the sub-committee was requested to vary the licence to permit the premises to open between 23.00 and 02.30 every day of the week, in line with the licence which they had to undertake licensable activities. It is understood that the licence holder had no objection to the amended condition.

In response to the above, the licence holder acknowledged that the licence conditions had caused confusion and he noted the reasons for this. He noted that he did not object to the Police application provided that the same conditions were enforced consistently for similar businesses in the area.

The relevant parties left the meeting and the application was discussed by members of the sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely:

- Crime and Disorder Prevention
- Public Safety
- Public Nuisance Prevention
- Protection of Children from Harm

**RESOLVED to approve the Police application to vary the licence to permit the premises to open between 23.00 and 02.30 every day of the week, in line with the licence which they have to undertake licensable activities.**

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

### **3. APPLICATION TO REVIEW A PREMISES LICENCE – CAERNARFON BURGER & KEBAB HOUSE, 19 BRIDGE STREET, CAERNARFON**

#### **Others invited to the Meeting:**

**Applicant:** Sergeant Bill Coppack (North Wales Police)

**Others representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**Representing Caernarfon Burger & Kebab House, 19 Bridge Street, Caernarfon:** Mr Mustapha Sari (Licence Holder), Ms Guler Sari and Mr Richard Williams (Solicitor)

The report of the Licensing Manager was submitted, providing details of the application by North Wales Police to review the licence of Caernarfon Burger & Kebab House, 19 Bridge Street, Caernarfon, because of a specific incident which had happened at 01.30, Sunday 5 August 2012, when there had been an altercation between two young men on the premises. The altercation had worsened to such an extent that both males were fighting and while the fighting was ongoing the premises was full of customers being served. He noted that it was a member of the public rather than the licence holder who informed the Police about the incident. The opinion of the Police was that the license holder had a duty to inform them of any violent incident; in accordance with the licensing objectives of crime and disorder prevention and public safety. The Police had witnessed that the premises was full of customers being served at 02.30, although the current licence noted that the premises were to close at 02.30. The Police had to use powers under Section 27 of the Violent Crime Reduction Act 2006 to quell the incident which had developed outside the shop, along with dealing with the incident inside the premises.

The officer noted that this sub-committee had considered another application on 23 July 2012 for a review of this licence by the Police. The application had been submitted at the time following a violent incident which happened on the premises on Sunday morning, 22 April, 2012. The licence holder had failed in his duty to inform the police of the incident at that time also. In the review hearing on 23 July 2012, the sub-committee decided to accept the Police's recommendation regarding amending the licence condition in relation to providing a better CCTV arrangement.

The police recommended that the licence conditions were to be reviewed as follows –

- a) To employ door supervisors registered with the Security Industry Authority at least on Friday and Saturday nights and also Sunday nights before a Bank Holiday.
- b) To amend the licence to ensure closing hours of 02:00 every night of the week.

Also, additional options are included for the consideration of the sub-committee in the application's appendix. The Police are not currently requesting the suspension of the licence, but they are inviting the sub-committee to consider this option if it is considered appropriate for the circumstances.

No observations had been received regarding the application but a letter had been received from the licence holder's solicitor objecting to the Police review.

In considering the application, the following procedure was followed:-

- i. The applicant was invited to expand on the application
- ii. Members of the Sub-committee were given an opportunity to ask questions of the applicant
- iii. The licensee, or his representative, was invited to respond to the observations

- iv. Members of the Sub-committee were given an opportunity to ask questions of the licensee
- v. The applicant and licensee, or his representative, were given an opportunity to summarise their case.

Sergeant Bill Coppack, on behalf of the Police, noted that the licence had been reviewed by the sub-committee in July 2012 because of a violent incident which had happened on the premises earlier this year. The sub-committee decided at that time that a better CCTV system should be installed at the premises and this system was operational prior to the meeting in July 2012. In relation to the incident on 5 August 2012, evidence was provided by means of a DVD of the two men fighting and the premises was full of customers being served whilst the fighting was going on. On this date also, it had been noticed that several customers had been served at 02.30, although the current licence noted that the premises were to close at 02.30.

In response to the above, the solicitor on behalf of the licence holder noted the following observations -

- The licence holder was sorry for the unfortunate incident but it was an argument between two people within the premises which had been shown on the DVD but other people had not been drawn into the incident.
- The licence holder was aware that a member of the public had informed the Police of the incident.
- The incident had not gone out of control and nobody had been arrested.
- It was unlikely for children to be at the premises at 01.35 when the incident happened.
- Over £2,000 had been spent on a new CCTV system since the last review in July 2012.
- The licence holder had now signed a contract to employ a door supervisor on Saturday nights and Sunday nights prior to Bank Holidays and any Friday, such as Good Friday between 23.00 and 02.30 and this would be operational from 28 October 2012.

Sergeant Coppack noted further that this incident would not have happened if there had been a door supervisor employed in the premises. The sub-committee were requested to amend the conditions of the licence by employing door staff registered with the Security Industry Authority at least on Friday and Saturday nights and also Sunday nights prior to Bank Holidays and to ensure a closing time of 02.00 every night of the week.

It was further noted by the solicitor acting for the licence holder that the incident at the premises took place at 01.35, and he was of the opinion that reducing the closing hours to 02.00 every night of the week would not resolve the situation.

The relevant parties left the meeting and the application was discussed by the members of the Sub-committee, who considered all the evidence submitted and specifically addressed the principles of the act, namely:

- Crime and Disorder Prevention
- Public Safety
- Public Nuisance Prevention
- Protection of Children from Harm

**RESOLVED to partly approve the Police application and to amend the licence as follows**

- 
- a) The premises will employ a door supervisor registered with the Security Industry Authority between 23.00 and 02.30 on Friday and Saturday nights and also any Sunday nights prior to Bank Holidays in order to ensure that the conditions of the premises licence are satisfied.**

**b) The premises will keep a register on the premises provided by the Local Authority of all the door supervisors employed at the premises and this register will be available for inspection at the request of any Police Officer or representatives of North Wales Police or any authorised officer of the Local Authority.**

The Solicitor reported that he would aim to send a letter within five working days, informing the applicants of the Sub-committee's decision, and informing them of their right to appeal against the decision within 21 days of receiving that letter.

The meeting commenced at 10.30am and concluded at 1.15pm.

---

## CENTRAL LICENSING SUB-COMMITTEE, 20.11.12

---

**Present:** Councillor Eryl Jones-Williams (Chairman)  
Councillors Christopher O'Neal, Gethin G. Williams

**Also present:** Siôn Huws (Compliance and Language Manager), Gwenan Williams (Licensing Manager), Sheryl Le Bon Jones (Operational Systems Manager – Public Protection Service), Alwyn Thomas and Robert Taylor (Licensing Enforcement Officers) and Gwyn Parry Williams (Member Support and Scrutiny Officer).

- 1. APPLICATION TO REVIEW PREMISES LICENSE – ATRIUM ALFRESCO, 4 TEGID STREET, BALA**
- 2. APPLICATION TO REVIEW PREMISES LICENCE – Y CWRT, 62 HIGH STREET, BALA**

**Others invited to the Meeting:**

**Applicant:** Ms Sheryl Le Bon Jones (Operational Systems Manager – Public Protection Service)

**Representing the Applicant:** Ms Gwenan Williams (Licensing Manager) and Messrs Alwyn Thomas and Robert Taylor (Licensing Enforcement Officers)

**Representing the Police:** Mr Ian Williams (Licensing Co-ordinator, North Wales Police)

**Representing Atrium Alfresco, 4 Tegid Street, Bala:** Mr Maseoud Anafcheh (Licensee) and Ms Moira Mai.

Before considering the applications, it was reported that written observations had been received by some of the neighbouring residents in connection with the two applications before the committee. They had been received within the permitted time to submit observations, but after the meeting's agenda had been circulated. As a result, copies of the observations were circulated to everyone at the start of the meeting and everyone was given an opportunity to read them thoroughly. None of those who had submitted the observations were present and it became apparent that there was no evidence to indicate that they had received a notice of the hearing, in accordance with statutory requirements. In light of this uncertainty, members were of the opinion that they could not proceed to consider the applications and that they should be deferred to another date to be set.

**RESOLVED to agree to defer the applications to another date to be set.**

The meeting commenced at 11.00am and concluded at 11.45am.

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>10<sup>th</sup> DECEMBER 2012</b>
<b>TITLE:</b>	<b>NEW LICENSING POWERS - EARLY MORNING ALCOHOL RESTRICTIONS ORDERS</b>
<b>PURPOSE:</b>	<b>FOR INFORMATION AND DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY DEPARTMENT</b>

## **PURPOSE**

This report explains the use and implications of the Early Morning Restrictions Orders (“EMROs”) to Gwynedd Council as a licensing authority. The power conferred on the licensing authority to make, vary or revoke an EMRO is set out in Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012

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 action for the promotion of the licensing objectives.

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. An EMRO may be applied to the whole or part of the licensing authority’s area.

An EMRO applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices – an EMRO does not apply to other licensable activities. Committee members are referred to the attached guidance on EMROS produced by the Home Office for the full list of situations which an EMRO may be applied.

## **EVIDENCE FOR INTRODUCING AN EMRO**

A decision as to whether or not to apply the EMROs to licensed premises within Gwynedd must be evidence based. The Council must be able to demonstrate that present powers available in the Licensing Act 2003 (as amended) for the purposes of promoting the licensing objectives have been fully utilised. Evidence from partners, such as the Police, the Community Safety Partnership, other responsible authorities as well as evidence from within licensing and public protection service of the Council must be considered.

The Home Office in its *Amended guidance issued under Section 182 of the Licensing Act 2003* makes it clear that licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their area. The potential burden of a determination on premises licence holders should be considered as well as the benefits in terms of promoting the licensing objectives.

Other measure that could be taken instead of an EMRO include –

- Reviewing the licences of problem premises
- Encouraging business – led best practice schemes
- Using other mechanisms such as planning controls, provision of CCTV surveillance, confiscation of alcohol in designated areas, issuing of fixed penalty notices, prosecution for breach of licensing conditions etc.
- Introducing a Cumulative Impact Policy

## **CUMULATIVE IMPACT OF LICENCED PREMISES**

Gwynedd Council's Licensing Policy states that relevant information held by responsible authorities such as the Police and Environmental Health within the Council may be used to establish the evidence base to inform the development of a Cumulative Impact Policy. Such information would include evidence of increased incidence of crime and disorder and public nuisance associated with a significant concentration of licensed premises within a specific area.

## **INTRODUCING AN EMRO**

If the licensing authority has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. Once the licensing authority has decided on the matters which are subject to the proposal ( such as the areas covered and the days) , the proposed EMROS must be advertised extensively. All the premises licence holders must be informed of the details of the proposal in writing.

Any relevant representations must be considered at a hearing, which may last several days depending on the number of relevant representations received.

## **POSSIBLE LEGAL CHALLENGES TO THE INTRODUCTION OF EMROS**

Solicitors acting on behalf of the trade have already indicated that they will be challenging local licensing authorities proposing to introduce EMROS.

Gwynedd as a licensing authority, and North Wales Police must be able to provide evidence if challenged that the powers presently available through the Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011 have been fully utilised to tackle crime and disorder connected to the late night economy, and to promote the licensing objectives.

The Licence Review process is a very powerful tool which if utilised to it's full potential by the Council and the Police working in partnership may be sufficient to achieve the desired effect; whilst not over burdening the Licensing trade at such a difficult time economically.

## **RECOMMENDATION**

That the members of the Committee accept the recommendation of the Head of Regulatory Service; that there is not enough evidence currently to introduce EMROs – as the current licensing legislative provisions have not as yet been fully utilised to promote the licensing objectives

# 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 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 every year);
  - will not apply to the supply of alcohol to residents by accommodation providers between 12 am and 6am, provided the alcohol is sold 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, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

## EVIDENCE

- 16.6 The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, 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.



- 16.7 When establishing its evidence base, 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.

### **INTRODUCING AN EMRO**

- 16.8 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, but should consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives. 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; and
- using other mechanisms such as those set out in paragraph [13.39] of this Guidance.

- 16.9 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**

- 16.10 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 made up of any 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.
- 16.11 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.
- 16.12 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**

- 16.13 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.

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

- 16.16 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.



16.17 Licensing authorities 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 do 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 it to be in the public interest;
- a licensing authority must give its determination within 10 working days of the conclusion of the hearing; and
- the authority is not required to notify those making representations of its determination so that the determination may be put before the full council of the authority to decide whether or not to make the EMRO.

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

16.19 As a result of the hearing, the licensing authority has three options:

- to decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
- to decide that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to decide that the proposed EMRO should be modified. In this 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 are capable of being made.

## **FINAL EMRO**

16.20 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

16.21 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 16.18. The order must be set out in the prescribed form and contain the prescribed content.

16.22 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.

- 16.23 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.
- 16.24 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.
- 16.25 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.
- 16.26 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**

- 16.27 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**

- 16.28 The 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.
- 16.29 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.

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>10<sup>th</sup> DECEMBER 2012</b>
<b>TITLE:</b>	<b>NEW LICENSING POWERS - THE LATE NIGHT LEVY</b>
<b>PURPOSE:</b>	<b>FOR INFORMATION AND DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY DEPARTMENT</b>

## **PURPOSE**

This report explains the use and implications of the Late Night Levy ( “the levy”), a new power conferred on licensing authorities by the provision of Chapter 2 of Part 2 of The Police Reform and Social Responsibility Act 2011 ( “the 2011 Act”)

The intention of the new power is to enable the council as the Licensing authority to charge a levy to persons who are licensed to sell alcohol late at night, as a means of raising a contribution which may be used towards the cost of policing the late – night economy.

Should the Council decide to introduce the levy, it will apply to the whole of Gwynedd. The levy would be payable by the holder of a premises licence or a club premises certificate which authorise the sale or supply of alcohol beginning at or after midnight and ending at or before 6am.

Premises not wishing to operate within the levy period, so as to avoid paying the levy must apply for a free variation to the premises licence to amend the licensing hours before a levy is introduced.

It is a matter for the council to decide, if it introduces the levy, which premises or situations may be excluded from the levy; these may include –

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo Halls
- Community Amateur Sports Clubs
- Community premises
- Country village pubs
- New Years Eve

## **INTRODUCTION OF THE LEVY**

The amended Home Office Guidance ( made under s 182 of The Licensing Act 2003) ( see attachment to this report) recommends that the decision to introduce, vary or end the levy is made by the Full Council, or delegated in a manner deemed appropriate by the Council.

The Council has to decide whether or not to introduce the levy; however, the council as the licensing authority is expected to discuss the need for a levy with the Chief Constable of North Wales Police and the newly elected Police and Crime Commissioner .

Informal discussions have already taken place with North Wales Police; but a formal request to consider the levy has not been received from the Police.

## **FINANCIAL CONSIDERATIONS**

It is the Council's responsibility to carefully consider if there is a financial risk in introducing the levy; and whether the revenue that can be expected from the levy will justify the costs of introducing the levy. The council can only retain up to 30% of the levy revenue; the money must be used to fund the services provided by the council which tackle late night alcohol related crime and disorder.

A minimum of 70% of the levy revenue must be retained by the Police; but there is no obligation on the Police to use that revenue to police hot spots of crime and disorder which are attributed to the late night economy.

The Committee should consider whether or not it is appropriate to introduce the levy in Gwynedd before incurring the costs of the formal consultation process. In deciding whether the levy is a viable option, the council should consider whether or not there are enough premises licensed to supply alcohol late at night (which are not likely to be exempt ) to generate enough revenue.

The annual levy charge which would apply to each licensed premises falling within the scope of the levy would be as follows -

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

## **THE FORMAL CONSULTATION PROCESS**

Should the council in consultation with The Chief Constable and the new Police and Crime Commissioner decide to introduce the levy; there must be a full consultation process. The consultation is intended to be targeted at those affected by the levy, particularly those licence holders likely to be subject to the levy; the police, residents and other interested parties.

## **POSSIBLE LEGAL CHALLENGES TO THE INTRODUCTION OF THE LEVY**

Solicitors acting on behalf of the trade have already indicated that they will be challenging local licensing authorities who decide to introduce the levy.

Gwynedd as a licensing authority, and North Wales Police must be able to provide evidence if challenged that the powers presently available through the Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011 have been fully utilised to tackle crime and disorder connected to the late night economy.

The Licence Review process is a very powerful tool which if utilised to its full potential by the Council and the Police working in partnership may be sufficient to achieve the desired effect; whilst not over burdening the Licensing trade at such a difficult time economically.

## **RECOMMENDATION**

That the members of the Committee consider the implications of introducing the levy, and accept the recommendation of the Head Of Regulatory Service that the present licensing legislative powers should be fully utilised before considering the introduction of the levy in Gwynedd.



## Police Reform and Social Responsibility Act 2011

### **Late Night Levy**

#### **What is the late night levy?**

The late night levy ('the levy') will enable licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It will be a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

#### **What is the policy's aim?**

The levy will empower local areas to charge businesses that supply alcohol late into the night for the extra enforcement costs that the night-time economy generates for police and licensing authorities.

#### **Why is the late night levy needed?**

The Coalition Agreement included the commitment to permit local councils to charge more for late night licences to pay for additional policing. We believe it is right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.

#### **Who will the late night levy affect?**

If a licensing authority chooses to introduce the levy in their area, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.

#### *Exemptions*

We do not wish to unfairly penalise premises which are not part of the wider night-time economy, and licensing authorities will therefore have the discretion to offer an exemption from the levy to the following categories of premises and schemes:

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo halls
- Community Amateur Sports Clubs ('CASCs')
- Community premises
- Country village pubs
- Business Improvement Districts ('BIDs')



Premises will have to meet specific criteria to be considered for these exemptions. Licensing authorities will also have the discretion to exempt premises that only open late on New Year's Eve. Guidance on exemptions will be published on the Home Office's website in October 2012.

### *Reductions*

Licensing authorities will have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme (the scheme must fulfil specific criteria), or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000. Guidance on reductions will also be published on the Home Office's website in October 2012.

### **What amount will be charged under the late night levy?**

The amount of the late night levy will be set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee. The following charges will apply to the levy:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises. This will ensure that larger clubs and bars make a higher contribution towards the levy.

### **Who will receive the revenue raised by the late night levy?**

The police will receive at least 70% of the net levy revenue. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. There will be restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The licensing authority will be able to deduct permitted administration, collection and enforcement costs from the gross levy revenue.

**Why is the late night levy not targeted at individual premises or areas?**

The levy will apply to the whole local authority area because it is the fairest way for all premises that benefit from selling alcohol in the late night economy to contribute towards the additional enforcement costs generated by this practice. Application across the whole licensing authority area will also ensure that the levy raises a meaningful amount for the police and is simple to adopt and administer. We are keen to avoid the mistakes of the previous Government's Alcohol Disorder Zones (ADZs), which were not adopted by any local authority because they were deemed too bureaucratic.

**When will the late night levy come into force?**

The levy will come into force in October 2012. Licensing authorities will need to consult the police, licensed premises and other relevant parties before deciding whether to introduce the levy in their area. We anticipate that the earliest date that a licensing authority could introduce a levy would be approximately June 2013.

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>10<sup>th</sup> DECEMBER 2012</b>
<b>TITLE:</b>	<b>REVIEW OF THE STATEMENT OF LICENSING POLICY</b>
<b>PURPOSE:</b>	<b>FOR INFORMATION AND DECISION</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY SERVICES</b>

## **BACKGROUND**

The Licensing Act 2003 introduced the requirement for Licensing Authorities to produce a Statement of Licensing Policy ( the “Policy”) following a full consultation with stakeholders.

The Policy must be revised every three years; so as to ensure it continues to be fit for purpose in terms of promoting the licensing objectives.

The Policy was introduced to a meeting of the Full Council on the 16<sup>th</sup> of December 2010, following a full review and minor changes to its contents. The amended Policy was accepted by the Full Council; with a recommendation that minor errors noted in the Policy be rectified.

Due to an oversight, the minor errors in the Policy were not corrected at the time and it has not been taken back to the members for approval.

Substantial change to the Licensing Act have come in to force recently with the provisions of the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012. Consequently, the Policy will need to be amended in its entirety in 2013

## **RECOMMENDATION**

That the members of the Committee accept the Policy in its present form until such time it is reviewed comprehensively in 2013.