

<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