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## CENTRAL LICENSING COMMITTEE, 10.12.12

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

Councillors: Eddie Dogan, Huw Edwards, Annwen Hughes, Eryl Jones-Williams, Christopher O'Neal, Angela Russell, Ann Williams, Elfed W. Williams, Gruffydd Williams

**Also Present:** Siôn Huws (Compliance and Language Manager), Gwenan Williams (Licensing Manager) and Gwyn Parry Williams (Member Support and Scrutiny Officer).

**Apologies:** Councillors John Brynmor Hughes, Peter Read, Gethin G. Williams

### Welcome

Councillor Huw Edwards was welcomed to the meeting following his recent surgery.

### Regards

Regards were sent to Councillor Peter Read for a speedy recovery.

#### **1. DECLARATION OF PERSONAL INTEREST**

No declarations of personal interest had been received from any member present.

#### **2. MINUTES**

The Chairman signed the minutes of the previous meeting of this committee held on 17 September 2012, as a true record.

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

Submitted - for information, the minutes of meetings of the Central Licensing Sub-committee held on 18, 22 October 2012 and 20 November 2012.

**RESOLVED to accept the information.**

#### **4. NEW LICENSING POWERS – EARLY MORNING ALCOHOL RESTRICTIONS ORDERS**

Submitted – the report of the Head of Regulatory Department on the use and implications of the Early Morning Restrictions Orders (EMROs) to Gwynedd Council as a licensing authority.

The Licensing Manager reported that the power conferred on the Licensing authority to make, vary or revoke an EMRO was outlined in the 2012 Regulations of the Licensing Act 2003 (Early Morning Alcohol Restriction Orders). This power enabled an authority to prohibit the sale of alcohol for a

specific time period between the hours of 00.00 and 06.00 in the whole or part of its area, if it was satisfied that this would be appropriate action for the promotion of the licensing objectives.

It was noted that Early Morning Restrictions Orders were designed to address recurring problems, such as crime and disorder associated with high levels of alcohol consumption at specific times in specific areas; serious public nuisance and other incidents of anti-social behaviour resulting from alcohol which were not directly attributable to specific premises. An EMRO could be applied to the whole or part of the licensing authority's area. An EMRO applied to the supply of alcohol authorised by premises licences, club premises certificates and temporary events notices. An EMRO did not apply to other licensable activities. Attention was drawn to the guidelines produced by the Home Office on these orders.

A decision as to whether or not to apply the EMRO to licensed premises in Gwynedd had to be evidence based. The Council was required to demonstrate that existing powers available under the Licensing Act 2003 (as amended) had been fully utilised in promoting the licensing objectives. Evidence from partners such as the Police, the Community Safety Partnership and other responsible authorities, along with evidence from within the licensing and public protection services of the Council had to be considered. The Home Office in its amended guidance issued under Section 182 of the Licensing Act 2003, made it clear that the licensing authorities were best placed to determine what actions were appropriate for the promotion of the licensing objectives in their area. The potential burden of a determination on premises licence holders should also be considered as well as the benefits in terms of promoting the licensing objectives. Details were provided of other measures which could be used instead of an EMRO.

It was noted that the Council's Licensing Policy specified that relevant information held by responsible authorities, such as the police and environmental health within the Council, could be used to establish the evidence base to develop 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.

In terms of making an EMRO, if the licensing authority had sufficient evidence to demonstrate that it would be appropriate for promoting the licensing objectives, it could propose making an EMRO. All premises licence holders had to be informed of the details of the proposal in writing.

Solicitors acting on behalf of the trade have already indicated that they would be challenging local licensing authorities proposing to impose such orders. It would be a requirement for the Council as the licensing authority and the Police to provide evidence if challenged that the powers currently available through the Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011 have been fully utilised to address crime and disorder connected to the late night economy and to promote the licensing objectives. The licence review process was a powerful tool which if utilised

to its full potential by the Council and the Police working in partnership could be sufficient to achieve the desired effect, whilst at the same time ensuring that the licensed trade was not over-burdened at such a difficult economic time.

A member referred to the fact that the owners of some licensed businesses that had been established were unaware of the need for a licence and this issue needed to be addressed.

In response, the Licensing Manager informed the committee that it was important that the Council was aware of any person who opened licensable premises to undertake any activities which needed a licence. Should it be found that licensable activities had been undertaken without a licence, the Council should receive the information and then the individuals would be contacted to ensure that they went through the appropriate process.

A member enquired whether the EMROs had been implemented by other councils.

In response, the Licensing Manager informed the committee that she was unaware at the moment of any authority which had adopted these orders.

#### **RESOLVED**

**a) To accept that there is insufficient evidence at the moment to introduce EMROs as the powers available under the current licensing legislative provisions have not yet been fully utilised to promote the licensing objectives.**

**b) To submit a report to the next committee on the developments in other councils in this field.**

#### **5. NEW LICENSING POWERS – THE LATE NIGHT LEVY**

Submitted – the report of the Head of Regulatory Department, providing details of the use and implications of the Late Night Levy, namely the 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 Licensing Manager informed the committee that the intention of the new power was to enable the Council as the Licensing Authority to charge a levy on persons who were licensed to sell alcohol late at night in Gwynedd as a means of raising a contribution which could be used towards the cost of policing the late-night economy. Should the Council decide to introduce the levy, it would apply to the whole of Gwynedd and would be payable by the holder of a premises licence or a club premises certificate which authorised the sale or supply of alcohol starting 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, had to apply for a free variation to the premises licence, in order to amend the licensing hours before a levy was introduced. It was noted that the Home Office's amended guidance, made under Section 182 of the Licensing Act 2003, recommended that the decision to introduce, vary or end the levy should be made by the full

Council or delegated in a manner deemed appropriate by the Council. However, it was expected that the Council, as the licensing authority, should discuss the need for the levy with the Chief Constable of North Wales Police and the newly elected Police and Crime Commissioner. Informal discussions had already been held with North Wales Police but a formal request to consider the levy had not been received from the Police.

It was the Council's decision to carefully consider whether there was a financial risk in introducing the levy and whether the revenue that could be expected from the levy would justify the costs of introducing the levy. Only 30% of the levy revenue could be retained by the Council. The money had to be used to fund the services provided by the Council to address late-night alcohol related crime and disorder. A minimum of 70% of the levy revenue had to be retained by the Police but the Police had no obligation to use that revenue to police hot-spots of crime and disorder which were attributed to the late-night economy. Consideration should be given to whether or not it was appropriate to introduce the levy in Gwynedd before incurring the costs of the formal consultation process. In deciding whether the levy was a viable option, the Council had to consider whether or not there were sufficient licensed premises to supply alcohol late at night to generate enough revenue. Details were provided of the levy charged annually on each licensed premises within the scope of the levy.

Should the Council decide to introduce the levy, then there had to be a full consultation process targeting those affected by the levy, particularly those licence holders likely to be subject to the levy, the police, residents and other interested parties.

It was noted that solicitors acting on behalf of the licensing trade had already indicated that they would be challenging local licensing authorities proposing to introduce the levy. It would be a requirement for the Council as the licensing authority and North Wales Police to provide evidence if challenged that the powers currently available through the Licensing Act 2003 and the Police Reform and Social Responsibility Act 2011 had been fully utilised to address crime and disorder connected to the late-night economy. The licence review process was a powerful tool which if utilised to its full potential by the Council and the Police working in partnership could be sufficient to achieve the desired effect, whilst at the same time ensuring that the licensed trade was not over-burdened at such a difficult economic time.

#### **RESOLVED**

**a) To accept that there is a need to fully utilise the existing licensing legislative powers before consideration can be given to imposing the levy in Gwynedd.**

**b) To submit a report to the next committee on the developments in other councils in this field.**

#### **6. REVIEW OF THE STATEMENT OF LICENSING POLICY**

Submitted – the report of the Head of Regulatory Department on the Review of the Licensing Policy.

The Licensing Manager reported that the Licensing Act 2003 introduced the requirement for licensing authorities to produce a Statement of Licensing Policy following a full consultation with stakeholders.

It was noted that it was a requirement for the policy to be reviewed every three years to ensure that it continued to be fit for purpose in terms of promoting the objectives of the Licensing Act. The Policy had been introduced to the full Council on 16 December 2010 following a full review and minor changes to its content and it was accepted with a recommendation that minor errors found in the Policy were to be rectified. Due to an oversight the minor errors in the Policy were not corrected at the time and the policy had not been taken back to the members for approval of the corrections.

Due to substantial changes to the Licensing Act that came into force recently with the provisions of the Police Reform and Social Responsibility Act 2011, and the Live Music Act 2012, there would be a requirement to amend the policy in its entirety in 2013.

In response to a question by a member regarding the Live Music Act 2012, the Licensing Manager informed the committee that she could submit details of the act at the next meeting of the committee.

**RESOLVED**

**a) To accept the policy in its existing form until the entire policy is reviewed in 2013.**

**b) To submit details of the Live Music Act 2012 to the next committee.**

The meeting commenced at 10:00am. and concluded at 10.50am.