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## EARLY MORNING ALCOHOL RESTRICTION ORDER

### 1.0 Matter for consideration

- 1.1 The Committee to consider a proposal to introduce an Early Morning Restriction Order.

### 2.0 Recommendation(s)

- 2.1 To adjourn the full hearing of the proposal to make an Early Morning Alcohol Restriction Order to a date to be notified.

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### 3.0 Information

- 3.1 An Early Morning Restriction Order (EMRO) is designed to address recurring problems such as high levels of crime and disorder and anti-social behaviour which is alcohol-related and where the behaviour is not directly attributable to specific premises. The concept of the EMRO was originally introduced by the Crime and Security Act 2010 where the Licensing Authority was to have the power to restrict the sale of alcohol between 03:00 and 06:00 hours. This power was never commenced.
- 3.2 The Police Reform and Social Responsibility Act 2011 amended the EMRO powers to permit a licensing authority to restrict the sale of alcohol between midnight and 06:00 hours. Licensing Authorities have had the power to make such an order since 31<sup>st</sup> October 2012.
- 3.3 An EMRO may be made by a Licensing Authority if it considers it appropriate to do so for the promotion of the licensing objectives. The provisions can be tailored to deal with the specific problems being experienced; it does not have to apply to the whole of the authority's area nor for 365 days a year. Any proposed order must state
- The area to be covered by the order
  - The days of operation (the whole week or specified days)
  - The hours of operation
  - The period of operation (the whole year or specific times of the year although an EMRO cannot apply on New Year's Eve into New Year's Day)
- 3.4 There are two prescribed exceptions:
1. Premises which are a hotel or comparable premises at which the supply of alcohol between midnight and 6 am on any day may only be made to a person –
    - a. Who is staying at the premises, and
    - b. For consumption only in the room at which the person is staying on the premises
  2. Premises which are authorised to supply alcohol for consumption on the premises between midnight and 6 am on 1<sup>st</sup> January in every year (but are not so authorised at those times on any other day in any year)

- 3.5 The process for considering an order is specified in Section 172B Licensing Act 2003 and the Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012. The proposed EMRO must be advertised in the local newspaper and on the authority's website. Details of the proposal must also be sent to all people likely to be affected and the responsible authorities. Notices must also be displayed in the area to be covered by the order.
- 3.6 Relevant representations for or against making the order may be made at any time during a period of 42 days starting on the day after the day the proposal is first advertised. A representation is relevant if
- It is about the making of an EMRO on the promotion of the licensing objectives,
  - It is made in writing in the prescribed form and manner,
  - It is received within the deadline, and
  - If made by a person other than a responsible authority, if it is not frivolous or vexatious.
- 3.7 Where relevant representations are received, the Licensing Authority must hold a hearing to consider them. This hearing must be commenced within 30 days of the end of the consultation period. The decision must be made no later than 10 working days after the end of the hearing. Whilst the final decision lies with full Council, the hearing may take place before the Licensing Committee.
- 3.8 Following the hearing the authority has three options
- To decide that the proposed EMRO is appropriate for the promotion of the licensing objectives;
  - To decide that the proposed EMRO is not appropriate and that the process should end; or
  - To decide that the proposed EMRO should be modified. The process should start again based on the modified terms.
- 3.9 Following the meeting of the Licensing Committee on the 15<sup>th</sup> May 2013 where consultation on the proposed Early Morning Order was agreed. Consultation on a draft proposal took place from 13<sup>th</sup> June 2013. The last date for representations was 25<sup>th</sup> July 2013. A total of 70 representations were received.
- 3.10 Two days had been set aside to consider the representations made, however concerns were expressed by a number of parties that the length of time set aside would be inadequate to properly consider the issues given the number of parties involved. In light these concerns and the fact that procedural errors were identified, the Committee is requested to adjourn this hearing on the basis that it is necessary for the consideration of the representations received.
- 3.11 All parties have been notified that their attendance at the meeting today is not required. Those with legal representation have been requested to provide their advocates availability in order that a five day hearing can be scheduled.

#### **4.0 Financial considerations**

- 4.1 None

#### **5.0 Legal considerations**

- 5.1 The decision to make an Early Morning Alcohol Restriction Order is challengeable by way of Judicial Review

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**Relevant officer:**

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**Appendices attached:**

None

**Background papers:**

None

**Websites and e-mail links for further information:**

None

**Glossary:**

None