

LICENSING COMMITTEE AGENDA



Wednesday 26 July 2017

at 10.00am

**in Committee Room B,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors, Beck, Buchan, Cook, Fleming, Hall, Hamilton, Hunter, Lawton, Lindridge, Loynes, Morris and Robinson

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To approve the minutes of the Licensing Sub-Committee meeting held on 14th March 2017.
- 3.2 To approve the minutes of the Licensing Committee meeting held on 29th March 2017.
- 3.3 To approve the minutes of the Licensing Sub-Committee meeting held on 4th May 2017.
- 3.4 To approve the minutes of the Licensing Sub-Committee meeting held on 16th May 2017.

4. ITEMS REQUIRING DECISION

- 4.1 Licensing Sub-Committees – Sub-Committee Memberships – *Chief Solicitor*
- 4.2 Early Morning Alcohol Restriction Orders (EMRO's) – *Interim Director of Public Health*

5. ITEMS FOR INFORMATION

No items.

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

FOR INFORMATION; -

Date of next meeting: - Wednesday 11th October at 10.00 am
in Committee Room B, Civic Centre, Hartlepool.



LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

14 March 2017

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Paul Beck (In the Chair)

In accordance with Council Procedure Rule 4.2 Councillor Brenda Loynes was in attendance as substitute for Councillor Gerard Hall and Councillor Bob Buchan was in attendance as substitute for Councillor George Springer

Officers: Ian Harrison, Trading Standards and Licensing Manager
Matthew Davies, Technical Officer (Licensing)
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

29. Apologies for Absence

Apologies were submitted by Councillors Gerard Hall and George Springer.

30. Declarations of interest by Members

None

31. Application for a new Premises Licence, One Stop, Unit 55, Forester Close, Hartlepool *(Interim Director of Public Health)*

Members were asked to consider an application to sell alcohol Monday to Sunday 6am – 11pm at the new One Stop Shop in Forester Close at the site of the former Schooner Pub. Objections had been received from 2 local residents expressing concerns that as the premises were situated within a residential area on a school bus route the proposals would have a detrimental impact on the Protection of Children from Harm, Public Safety and Public Nuisance licensing objectives. The Trading Standards and Licensing Manager acknowledged that the hours requested were outside the Council's Licensing Act Policy for residential areas but noted that a number of conditions had been agreed with Cleveland Police who had consequently raised no objections.

Nicola Smith addressed the sub-committee as legal representative for One Stop (accompanied by Sarah Hughes and Sarah Markew from the company). She urged members to support the application referring to One Stop's extensive policies and procedures to promote the licensing objectives, their experience nationally and locally and their good compliance record. She acknowledged the Council's Licensing Act Policy in terms of the supply of alcohol in residential areas but noted that national policy stated that shops should be allowed to sell alcohol during opening hours unless there were good reasons not to allow this. The Police had imposed numerous conditional controls and as a result had raised no objections. In terms of objector concerns relating to public safety and public nuisance she noted that the store would be open during those hours regardless, only the sale of alcohol would be affected if members decided not to grant the licence. Members asked a number of questions and were reassured that One Stop had robust policies in place to prevent the sale of alcohol to minors and those under the influence. Efforts were also made to engage with the local community as it was felt this helped in the prevention of theft and anti-social behaviour.

Members considered the application and objections received to it. The Chair read the following statement:

"The licensing sub-committee considered the application and representations put forward by the applicant and the written representations received from residents. In respect of the written representations these concerned the licensing objectives relating to the prevention of public nuisance, protection of children from harm and public safety.

One of the resident's representations stated that the premises are in the middle of a housing estate and to allow the store to open for the hours requested would cause noise and disturbance to local residents. The other representation concerned children getting the school bus from 7.30am and public safety.

In addition to the representations, the report to the licensing sub-committee drew their attention to the premises being situated in a residential area and further that paragraph 5.14 of the Council's statement of licensing policy stated that shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licenses before 9am or after 10pm in residential areas will generally be refused.

The applicants solicitor addressed the issues raised and informed that the company has policies and procedures in place to prevent public nuisance, protect public safety and protect children from harm.

The applicant advised that the company has 2 other premises in Hartlepool which are licensed from 6am to 11pm and 1 other premise licensed from 8am to 11pm with the 3 premises all being within residential areas. The applicant referred to paragraph 10.15 of the licensing act guidance

which states that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives for restricting those hours.

The licensing sub-committee considered all matters raised and determined that the licensing objectives would not be undermined by the granting of the application. The licensing sub-committee considered that in these exceptional circumstances a departure from paragraph 5.14 of the Council's statement of licensing policy could be justified and therefore granted the application in its entirety"

Decision

That the application be approved.

The meeting concluded at 11:30am.

CHAIR

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

29th March 2017

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Brenda Loynes (In the Chair)

Councillors: Allan Barclay, Paul Beck, Rob Cook, Dave Hunter,
Trisha Lawton, George Morris, Jean Robinson and George
Springer

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

19. Apologies for Absence

Apologies were submitted by Councillors Bob Buchan, Gerard Hall and Kaylee Sirs.

20. Declarations of interest by Members

None

21. Confirmation of the minutes of the Licensing Committee meeting held on 28th September 2016

Approved

22. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 28th September 2016

Approved

23. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 18th October 2016 at 1.15pm

Approved

24. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 18th October 2016 at 2.00pm

Approved

25. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 21st October 2016

Approved

26. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 28th October 2016 at 10.00am

Approved

27. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 28th October 2016 at 1.00pm.

Approved

28. Licensing Policy and Early Morning Alcohol Restriction Orders (EMRO's) *(Interim Director of Public Health)*

Members of the Committee were reminded by the Council solicitor that this item was the beginning of a legal process that required them to retain an open mind to the evidence that will be presented to them.

At Council on 23rd February 2017 it was agreed that consideration of the potential introduction of an EMRO in Hartlepool be referred to Licensing Committee following the receipt of a motion on this matter. In 2013 Hartlepool had become the first Council to formally consider the introduction

of an EMRO which would require all alcohol licensed premises within a designated area to stop selling alcohol within specified times. At that time, and following a large number of objections both national and local members had determined that it was not appropriate on the basis that while it might have a positive impact on crime and disorder it would have a detrimental impact on the economic viability of local businesses. Since then no other licensing authority in the country had adopted an EMRO or was considering one. In November 2014 the committee had once again considered the viability of an EMRO but decided no further action should be taken while in February 2016 following a request by the Safer Hartlepool Partnership further consideration had been undertaken. However no evidence of crime and disorder in relation to this request had been provided by the Safer Hartlepool Partnership and therefore the matter had not been progressed.

Details were given with the report of the statutory guidance within the Licensing Act on the introduction of EMROs in relation to the evidence needed and alternatives to EMROs. Members were advised that given that the matter had only been referred from Council in February it had not been possible to address all these issues sufficiently at this time and it was therefore proposed that a more detailed report be brought to the next meeting of the Committee in the new municipal year.

Following queries from members the Trading Standards and Licensing Manager clarified the following:

- Licensees were not obliged to keep their premises open for their licensable hours and could close earlier if they wished to
- Licensees could formally reduce their licensable hours at any time by informing the licensing department and paying a fee of £89
- Licences could be transferred to another holder for a £23 fee
- Even premises which were closed could still have an active licence attached to them
- If an EMRO were granted all licences which fell outside the designated hours would be automatically amended and resent to the licence holders
- An EMRO would only control the sale of alcohol and not the consumption meaning that in theory premises could stay open as long as patrons were finishing their drinks albeit no more sales could take place.
- Consideration of an EMRO could take up to 9 months from start to finish.
- If an EMRO were granted the decision could be challenged via judicial review at an approximate cost to the Council of £100 thousand.

Members felt that it would be prudent to consider the evidence both for and against an EMRO in more detail. They expressed concern that introducing an EMRO could put extra stress on an already overstretched police force. The Chair suggested that members might wish a members seminar be carried out involving all Councillors. This would be arranged in conjunction

with the police to allow them to give detailed figures on crime and disorder relating to the night time economy. She also suggested that all Councillors be invited to accompany police during a Saturday night shift in the town centre to enable them to witness the problems faced by officers for themselves. The Trading Standards and Licensing Manager suggested this should commence at midnight so that members could see how the night developed. Members felt both these events would be useful and were happy to support them. Members also requested that representatives from the local Licensees Association and Town Pastors organisation be invited to give evidence.

Decision

That the report be noted and more detailed evidence on the potential introduction of an EMRO brought to the next Licensing Committee meeting.

29. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

The Trading Standards and Licensing Manager informed members that as of 6th April local authorities would take responsibility for the removal of personal licences. These decisions would be delegated to the Licensing Committee and would only be if the licence holder were convicted of a relevant offence. He asked if members would happy to delegate to the existing sub-committees.

Decision

That all decisions concerning the suspension and revocation of personal licences be delegated to the Licensing Sub-Committees.

The meeting concluded at 10:50am

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

4th May 2017

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Rob Cook (In the Chair)

Councillor: Trisha Lawton

In accordance with Council Procedure Rule 4.2 Councillor Paul Beck was in attendance as substitute for Councillor Dave Hunter

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Jane Kett, Commercial Services Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

32. Apologies for Absence

Apologies were submitted by Councillor Dave Hunter

33. Declarations of interest by Members

None

34. Application for a new premises licence – Seaton Rock, Coach Park, Seaton Carew *(Director of Public Health)*

Members were asked to consider an application for a new premises licence in respect of the Seaton Rock Live Music Event scheduled to take place at the Sandy Car Park (Coach Park), Seaton Carew on Saturday 1st July. The applicant, Ian Young, had requested a licence for the supply of alcohol (on premises), live music and recorded music between 11am and 10pm. The application had been advertised in accordance with statutory requirements and one representation had been received from the Council's Commercial Services (Health and Safety) Team. On their application form Mr Young had pledged to produce a full Event Safety Management Plan formulated by an independent Health and Safety Officer. However at the time the report had been written (21st April) no Event Safety Management Plan or similar documentation had been provided to the Commercial Services (Health and

Safety) Team. Therefore they felt unable to make a positive evaluation of the likely safety of the proposed event. Members were therefore asked to determine whether the Public Safety licensing objective would be promoted.

The Head of Public Protection acknowledged that since the writing of the report, a draft Event Safety Management Plan had been submitted but there had not been sufficient time to consider it fully. She stated that whilst members could attach conditions to the granting of the licence she felt it was not appropriate to condition public safety requirements for this event feeling that public safety should be about the arrangements the applicant had put in place to manage safety not just paperwork. The applicant needed to demonstrate they had suitable arrangements in place, in terms of an event plan and risk assessments, to meet the requirements. The current event guide and risk assessment were in draft form and the department had not been given adequate time to analyse the documentation or obtain missing information. She suggested that an adjournment would be appropriate to allow the applicant time to complete and submit the required documentation in its final stage and provide details of the proposed arrangements. This would allow the department time to complete their assessment and reassure members that adequate arrangements were in place to meet the Public Safety licensing objective.

Mr Young addressed members. He concurred with the suggested adjournment saying he was keen that this event be remembered for the right reasons. He advised that a revised plan had been submitted following concerns having been raised regarding sound pollution to nearby properties. He had also brought on board Glenn Layfield who had previously been responsible for health and safety at the Stockton Live and Hardwick Live events. The team responsible for HUFC security had also been brought in giving Mr Young peace of mind that the event would be run appropriately and safely. He also pledged that appropriate road signage would be used and the site would be tidied and left in a better state than it had been before the event. Members referred to the lighting on the roadway between the domes and the event site and sought reassurance that it would be sufficient to assist patrons leaving the event late on the evening. Mr Young confirmed that there would be wardens and marshals in high-visibility jackets on that road. Wardens would also be on hand to ensure nobody was able to park at the nearby cricket and golf clubs.

Members retired to consider the request for an adjournment. When they returned the Chair made the following statement:

“Whilst the community and charitable benefits of this event are recognised and appreciated, this Licensing Sub-Committee is legally required to consider only the issue of public safety when determining whether the licence should be granted. Having taken into consideration the representations that have been submitted, the Sub-Committee considers it reasonable and appropriate, and in the public interest, to provide the applicant with more time to satisfy us that the Public Safety licensing objective will be promoted at this event. As such, the Sub-Committee has

determined that consideration of this licence application be adjourned until 26th May 2017. As the applicant it will be in your interests to continue working with the Council's Environmental Health Officers to ensure that they have no outstanding concerns when this Sub-Committee meets again.

Decision

That the meeting be adjourned

The meeting was adjourned at 10:45am.

The meeting reconvened at 2.00pm on Friday 26th May in the Civic Centre,
Hartlepool

Present:

Councillor: Rob Cook (In the Chair)

Councillors: Dave Hunter and Trisha Lawton

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Jane Kett, Commercial Services Manager
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

42. Apologies for Absence

None

43. Declarations of interest by Members

None

44. Application for a new premises licence – Seaton Rock, Coach Park, Seaton Carew *(Director of Public Health)*

The Head of Public Protection advised members that following the previous meeting on 4th May the applicant had provided an updated event plan and risk assessments. He had responded to issues raised, provided additional information and met with an officer to discuss outstanding matters. The only remaining matters of concerns related to verbal assurances that a dog fouling bin would be removed from one of the emergency exits and that there would be no electrical cables running across any of the emergency exits and it was suggested that members might wish to consider conditioning these assurances.

The Applicant, Mr Young, was present and addressed members. He assured them that following the recent terrorist incident in Manchester

safety and security was at the forefront of the organisers' minds. 35 security staff would be in place on the day and close ties would be maintained with the police, with sniffer dogs available if required. Fencing would be installed from 6am the day before the event and security personnel would be in place from 7am and would remain in place throughout the night and until the completion of the event the following day. A first aid team manned by NHS volunteers would also be in place throughout the day. Mr Young indicated that he would be happy to have the emergency exit requirements included as part of the conditions. He confirmed that he would be responsible for the safety of all those present on the day with the help and support of Glenn Layfield who had previously been responsible for health and safety at the Stockton Live and Hardwick Live events

Members retired to consider their decision in private. They were happy to note that all matters of concern appeared to have been resolved although they did note some concerns of their own in relation to the lack of police presence on the day of the event and potential problems with parking. Upon their return the Chair read the following statement:

'This Licensing Sub-Committee is pleased to see that significant progress had been made in this matter and that the Council's Commercial Services Team is now satisfied with the safety arrangements put in place for this event.

As stated at the initial hearing the role of this Sub-Committee is to ensure that the licensing objective of public safety will be promoted by the granting of this licence application.

Having considered the comments and representations made on behalf of the Council's Commercial Services Team, and the applicant, this Sub-Committee has determined that the licence can now be granted in the terms stated in the initial application and as subsequently amended by written agreements between the applicant and Responsible Authorities – all of which will be clearly stated in the licence which will be sent to you shortly.

In addition to this, the Sub-Committee has determined that it is appropriate to add 2 further conditions onto the licence to ensure that emergency exits are kept clear at all times.

These conditions are: -

1. All Emergency Exits shall be kept clear of electrical cabling and other tripping hazards
2. The dog bin currently fixed to a post at Emergency Exit C shall be removed prior to the event taking place

As licence holder, you are reminded of your responsibilities to ensure that all conditions attached to the licence must be strictly adhered to.'

Members also urged Mr Young to make every effort to control parking on

Tees Road. They wished the organisers a successful trouble-free event.

Decision

That the licence be awarded.

The meeting concluded at 2.30pm.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

16th May 2017

The meeting commenced at 2.00pm in the Civic Centre, Hartlepool

Present:

Councillor: Gerard Hall (In the Chair)

Councillors: Bob Buchan, Trisha Lawton and Jean Robinson

Officers: Ian Harrison, Trading Standards and Licensing Manager
Matthew Davies, Technical Officer (Licensing)
Hayley Martin, Head of Legal Services 'Place'
Jo Stubbs, Democratic Services Officer

35. Apologies for Absence

None

36. Declarations of interest by Members

None

37. Local Government (Access to Information) (Variation Order) 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 38 – Private Hire Drivers Licence PG– This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

Minute 39 – Hackney Carriage Drivers Licence SAL – This item contains exempt information under Schedule 12A Local Government Act 1972 as

amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

Minute 40 – Hackney Carriage Drivers Licence MRA – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

Minute 41 – Private Hire Drivers Licence ICB– This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

- 38. Private Hire Drivers Licence PG** (*Interim Director of Public Health*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information)

Members were asked to consider what action, if any, should be taken against a licensed Private Hire driver.

Decision

Detailed within the closed minutes

- 39. Hackney Carriage Drivers Licence SAL** (*Interim Director of Public Health*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information)

Members were asked to consider what action, if any, should be taken against a licensed Hackney Carriage driver.

Decision

Detailed within the closed minutes

- 40. Hackney Carriage Drivers Licence MRA** (*Interim Director of Public Health*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information)

Members were asked to consider an application for a Hackney Carriage Drivers Licence.

Decision

Detailed within the closed minutes

- 41. Private Hire Drivers Licence ICB** (*Interim Director of Public Health*) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information)

Members were asked to consider an application for a Private Hire Drivers Licence.

Decision

Detailed within the closed minutes

The meeting concluded at 3.50pm

CHAIR

LICENSING COMMITTEE

26 July 2017



Report of: Chief Solicitor

Subject: LICENSING COMMITTEE - SUB COMMITTEE MEMBERSHIPS

1. PURPOSE OF REPORT

- 1.1 To re-appoint and fill vacancies on the Licensing Sub Committees.

2. BACKGROUND

- 2.1 There are four sub committees of three members dedicated to considering licences for premises and three sub committees of four members dedicated to considering licences for hackney carriage and private hire drivers.
- 2.2 Following a discussion with the Chair, the following proposed sub committee memberships are set out for Members consideration / discussion.

Licensing Sub Committees for premises licences: -

1. George Morris (Chair), Lesley Hamilton, Dave Hunter
2. Rob Cook (Chair), Jim Lindridge, Brenda Loynes
3. Paul Beck (Chair), Bob Buchan, Tim Fleming
4. Trisha Lawton (Chair), Ged Hall, Jean Robinson

Licensing Sub Committees for hackney carriage and private hire licences: -

1. Brenda Loynes (Chair), Paul Beck, Rob Cook, Jim Lindridge
2. Dave Hunter (Chair), Bob Buchan, Lesley Hamilton and George Morris
3. Trisha Lawton (Chair), Tim Fleming, Ged Hall, Jean Robinson

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee. The proposals set out meet that requirement as far as practicable.

3. LEGAL CONSIDERATIONS

- 3.1 The Local Government and Housing Act, 1989, requires 'as far as practicable' that a local authority allocates seats on Committees and Sub Committees in the same proportion to reflect the number of Members in each political group to the overall membership of the authority. It is therefore open to the Licensing Committee to agree the composition (in this case) of its Sub Committees which departs from the above principle, where it is appropriate and practicable to do so. This would apply where the nominations received required the various Sub Committees to have a 'disproportionate' number of Members from the same political group, in order to allow its business to be transacted.

4. RECOMMENDATION

The Committee is requested to consider and agree the Sub Committee memberships set out above.

5. REASONS FOR RECOMMENDATIONS

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as a minimum of three members need to be present as a statutory requirement .

6. BACKGROUND PAPERS

Licensing Act Committee Minutes 7 January 2005
Licensing Act Committee Minutes 27 July 2005
Licensing Committee Minutes 15 March 2006
Licensing Committee Minutes 2 July 2008
Licensing Committee Minutes 29 July 2009
Extraordinary Council Minutes 6 March 2013
Licensing Committee Minutes 23 July 2014
Licensing Committee Minutes 13 June 2015
Licensing Committee Minutes 13 July 2016

7. CONTACT OFFICER

Jo Stubbs, Democratic Services Officer
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LICENSING COMMITTEE

26th July 2017



Report of: Interim Director of Public Health

Subject: EARLY MORNING ALCOHOL RESTRICTION ORDERS (EMRO's)

1. PURPOSE OF REPORT

- 1.1 To re-consider the feasibility of introducing an Early Morning Alcohol Restriction Order (EMRO).

2. BACKGROUND

- 2.1 This is a comprehensive report detailing the legal and contextual background to Early Morning Alcohol Restriction Orders (EMRO's), the issues that a licensing authority must take into account when considering whether an EMRO is appropriate and the steps that must be taken if an EMRO is recommended.
- 2.2 At a meeting of full Council on 23rd February 2017 a motion was presented concerning the potential introduction of an EMRO in Hartlepool.
- 2.3 Council agreed to refer the matter to the Licensing Committee for consideration.
- 2.4 On 29th March 2017 the Licensing Committee reviewed the matter and requested detailed evidence to allow for further consideration to be given.
- 2.5 This report is intended to provide Licensing Committee with the information it needs to make an informed decision.
- 2.6 Legal Background - Licences
- 2.7 Premises that are used for the sale or supply of alcohol must have the appropriate legal authorisation to do so – usually in the form of a premises licence.
- 2.8 A premises licence stipulates the latest hour that alcohol that *may* be sold and these hours can vary from premises to premises.

- 2.9 When the Licensing Act was introduced in 2005 it removed ‘prescribed’ hours, whereby all premises closed at the same time, and replaced it with a flexible approach whereby premises could be licensed for whatever they wanted – and there was a requirement for these hours to be granted by a licensing authority if there were no objections made at the time of application.
- 2.10 This has resulted in a number of premises in Hartlepool having a licence that authorises the sale of alcohol until 4:00 a.m. but there is no obligation on those premises to continue trading until that hour.
- 2.11 The premises are entitled to close earlier if they wish without any reference to the Council.
- 2.12 Legal Background - EMROs
- 2.13 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.
- 2.14 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 midnight 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;
 - does not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January each year);
 - does not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6 a.m., provided the alcohol is sold at those times only through mini-bars and/or room service;
- 2.15 The adoption of an EMRO must follow strict procedures that are laid down in law and statutory guidance. A flow chart detailing the process is attached as **Appendix 1**.
- 2.16 It is for the Licensing Committee to consider the evidence and, if it believes that an EMRO is appropriate, it must recommend it to full Council which would make the final decision.

2.17 History

- 2.18 In 2013 Hartlepool became the first Council in the country to formally consider the introduction of an EMRO. A large number of objections were received from local licensees and other interested parties from around the country.
- 2.19 After hearing the evidence, the Licensing Committee determined that it was not appropriate, at that time, to recommend the adoption of an EMRO on the basis that, whilst it may have a positive impact on the prevention of crime and disorder, it would also have a detrimental impact on the economic viability of local businesses. A copy of the Licensing Committee's decision is attached as **Appendix 2**.
- 2.20 Interestingly, perhaps, the majority of representations against the introduction of an EMRO in 2013 came from national companies, associations and their legal representatives – none of whom had any premises in Hartlepool that would be directly affected. Their representations could best be regarded as objections 'in principle' and there is no doubt that those objections remain.
- 2.21 Since Hartlepool's decision in 2013, no other licensing authority in the country has adopted an EMRO and, at the time of writing this report, it is believed that there are no EMRO's being actively considered anywhere in the country.
- 2.22 On 6th November 2014 the Licensing Committee once again considered EMRO's but determined that no further action should be taken.
- 2.23 In February 2016, following a request by the Safer Hartlepool Partnership (SHP), EMRO's were again considered by the Licensing Committee. As the implementation of an EMRO must be based on evidence, the Committee asked the SHP for evidence of crime and disorder so that the matter could be considered more fully. After consideration, the SHP were unable to identify any significant evidence of increased crime and disorder.
- 2.24 As detailed above, the matter was raised again in February 2017 when a motion was presented at a meeting of full Council.
- 2.25 Council agreed to refer the matter to the Licensing Committee for consideration and this report forms part of those considerations.
- 2.26 Hartlepool's Night Time Economy
- 2.27 Hartlepool's Night Time Economy area is defined in the map attached as **Appendix 3**.
- 2.28 There are currently 16 premises in the Night Time Economy area licensed to sell alcohol later than 2:00 a.m. but five of these are currently closed and have been for a considerable time. In addition, not all of those premises that are still trading make full use of their licensed hours.

- 2.29 A full list of all late licensed premises in the Night Time Economy area is attached as **Appendix 4**.
- 2.30 Since the Licensing Act was implemented in 2005 approximately 40% of the late licensed premises in the town centre have closed and violent crime in the area has fallen.
- 2.31 Recorded incidents of anti-social behaviour, crime and violence against the person associated with the Night Time Economy are detailed in **Appendices 5 and 6**.
- 2.32 Members will be aware that the current late night culture appears to be one of 'pre-loading' whereby people drink cheap alcohol at home and then travel into the town centre sometime after 11 p.m. – often after midnight.
- 2.33 Anecdotal feedback from the licensed trade and taxi drivers is that business is considerably worse than it was several years ago and that only Saturday night could be regarded as a 'busy night'.
- 2.34 House of Lords Report 2017
- 2.35 In March 2017 the House of Lords published its 182 page post-legislative scrutiny report on the Licensing Act. It made a number of comments regarding EMRO's, and made specific reference to Hartlepool's experiences.
- 2.36 The report is extremely critical of EMRO's with the following comments being particularly relevant: -

Para 453 - During our inquiry, no one we heard from believed EMROs were implementable in their current form.

Para 455 - Jon Foster of the Institute of Alcohol Studies struck a similar note when he argued that "police and local authorities are keen on having a lever they can realistically pull" to reduce early morning opening hours, but that the "the gap between legislation and implementation is huge."

Para 457 - Several respondents noted that opposition to EMROs from industry, particularly when attempts were made to introduce them in Blackpool and Hartlepool, had dampened enthusiasm for further attempts elsewhere. Alcohol Research UK noted that the Association of Licensed Multiple Retailers (ALMR) had set up a "fighting fund to challenge any council that proposed introducing an EMRO, and after the successful high-profile challenges in Hartlepool and Blackpool, no further EMROs were introduced." They suggested that this "demonstrated the extent to which trade actions at local level can derail policies established by central government, and follows an established historical trend".

Para 465 - All the evidence we have received has made clear that EMROs have proved impossible to implement, and may indeed prove harmful to any

area in which they are implemented. The majority of local authorities we heard from were unenthusiastic towards them both in principle and in practice, and on the few occasions where they have been considered, they have subsequently been withdrawn under threat of legal challenge.

Para 466 - We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed

3. ISSUES FOR CONSIDERATION

3.1 For a licensing authority to consider the adoption of an EMRO it must ensure that the processes detailed in the Licensing Act have been strictly followed and that due consideration has been given to the Act's statutory guidance.

3.2 The guidance states that for a licensing authority to introduce an EMRO it would be necessary to demonstrate: -

- that an EMRO is the best option to address these problems;
- that there is sufficient evidence to demonstrate that an EMRO is appropriate to promote the licensing objectives; and
- that there are recurring alcohol-related problems in a specific area between midnight and 6:00 a.m.

and taking into account: -

- the trends in crime and disorder;
- the evidenced benefit that an EMRO would produce;
- the potential negative impact on the local economy;

3.3 The Act's licensing objectives are: -

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

3.4 Whilst EMRO's are not to be regarded as a last resort, the statutory guidance does identify a number of alternatives that should be given consideration such as: -

- introducing a Cumulative Impact Area (*see para 3.5*);
- reviewing licences of specific problem premises (*see para 3.11*);
- working in partnership with licensed premises on voluntary measures and encouraging the creation of business-led best practice schemes in the area (*see para 3.27*);
- planning control (*see para 3.32*);
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols (*see para 3.36*);
- Raising a contribution to policing the late night economy through the Late Night Levy (*see para 3.39*);
- use of the new closure power in the Anti-social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the 2003 Licensing Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-social Behaviour, Crime and Policing Act: anti-social behaviour guidance;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices; and
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);

3.5 Cumulative Impact Area

- 3.6 Cumulative Impact is defined in statutory guidance as ‘the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area’.
- 3.7 The designation of a Cumulative Impact Area (CIA) creates a rebuttable presumption that applications for the grant or variation of premises licences or

club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.

- 3.8 When the Licensing Act was first introduced, Hartlepool defined its town centre area as a CIA due to the large number of late licensed premises located there. The CIA has been retained during subsequent revisions of the Council's Licensing Policy but the area itself has reduced in size in response to the shrinking Night Time Economy. A map of the current CIA (which is also the defined Night Time Economy area) is attached as Appendix 3.
- 3.9 Whilst the statutory guidance recommends the consideration of a CIA as an alternative to the adoption of an EMRO, it can be seen from the above that a CIA only applies to new licence applications and voluntary variations of licences already in force. It cannot be used to change existing licences without the licence holder's agreement.
- 3.10 A CIA can therefore be a useful tool to control the growth of an already saturated area but it is not an alternative to an EMRO when wanting to control licences already in place.
- 3.11 Action Against Individual Licensees
- 3.12 The Licensing Act allows for licences of existing premises to be 'reviewed' when it is believed they may be undermining the Act's licensing objectives.
- 3.13 An application for the review of a licence can be made at any time, by any agency or individual, and, if the evidence warrants it, the consequences can include an amendment to the licensed activities, the times that these can take place or even the suspension or revocation of the licence.
- 3.14 Since the Act was first introduced there have been eight licence reviews of premises in the Night Time Economy area – all instigated by Cleveland Police following one or more serious incidents associated with those premises.
- 3.15 The most recent licence review was in 2015 in relation to *The Showroom* on Victoria Road. This had been initiated by Cleveland Police and, following a Licensing Sub-Committee hearing, the terminal hour of the licence was brought back from 4:00 a.m. to 3:00 a.m.
- 3.16 Licence reviews are generally considered to be an action of last resort. Where a premises becomes a concern for Cleveland Police their standard practice would be to open a dialogue with the management of the premises and agree on an Action Plan to address the problems.
- 3.17 In most cases, this approach is successful and a full licence review is not required.

- 3.18 As can be seen, the licence review process can be used to reduce the licensed hours of a premises where sufficient evidence exists to demonstrate that those premises have not been promoting the licensing objectives.
- 3.19 Action can only be taken against a specific premises where evidence exists relating to that particular premises. Generic reviews of all premises in a particular street are not possible unless there is evidence to identify the wrongdoing of each of those premises.
- 3.20 Where there are persistent problems in an area which are not directly attributable to one or more specific premises, the licence review process cannot be used.

3.21 Voluntary Agreements

- 3.22 On a number of occasions in recent years, efforts have been made to encourage licensees to reduce their terminal hours voluntarily.
- 3.23 Most, but not all, licensees have been open to the possibility of voluntary agreements but as it has never been possible to have all licensees 'on board' at the same time there has been an unwillingness to act unilaterally.
- 3.24 Understandably, no one wants to give up their 4:00 a.m. closing time if their neighbour, and competitor, keeps theirs.
- 3.25 Many of the late licensed premises in the town centre area only open for two or three nights a week and trade for less than 15 hours. A voluntary surrender of some of those hours, without a similar action from their direct competitors, could be commercially very damaging.
- 3.26 For those premises currently closed, but still licensed, the late licence may be seen as a commercially valuable asset and, as such, the licence holder may be reluctant to reduce the hours, and therefore the value of that asset.

3.27 Voluntary Best Practice Schemes

- 3.28 A number of attempts have been made to introduce voluntary best practice schemes in the town – the most popular, and most common across the country being 'Best Bar None'.
- 3.29 Whilst small groups of licensees have shown commendable enthusiasm there has never been enough to establish a scheme successfully in Hartlepool. 'Best Bar None' is meant to be a 'trade led' scheme where pubs, clubs and restaurants improve standards through self regulation.
- 3.30 Whilst the involvement of agencies such as the Police and licensing authorities is welcomed, the recognised best approach is that schemes should be self managed.

3.31 There are currently no plans in Hartlepool for licensees to launch a 'Best Bar None' scheme.

3.32 Planning Controls

3.33 The Emerging Local Plan mirrors the Council's Licensing Policy and limits opening hours for new developments to no later than 2:00 a.m. in non-residential areas.

3.34 For premises already trading, the planning process cannot be used to reduce current trading hours.

3.35 Members will be aware of the ambitious plans for the regeneration of the Church Street area and broadening its day time appeal. This may have a positive impact on licensed premises in the area and if day time trade becomes successful, the reliance on the Night Time Economy may reduce sufficiently for terminal hours to be voluntarily reduced.

3.36 CCTV

3.37 Members may be aware that the Council's CCTV systems have been significantly improved following a relocation from the Greenbank site to the Civic Centre.

3.38 The manager of the new CCTV control room has provided assurances that monitoring of the Night Time Economy will be one of the centre's priorities.

3.39 Late Night Levy

3.40 In 2011 the Government passed new legislation which introduced both EMRO's and the 'Late Night Levy' which provided the opportunity for licensing authorities to charge an additional 'levy' on its late licensed premises.

3.41 In 2012 the Licensing Committee considered these new options and determined that an EMRO was the most appropriate for Hartlepool's circumstances.

3.42 Following the ultimate decision not to proceed with an EMRO in 2013, the Licensing Committee once again considered the option of a Late Night Levy in 2014.

3.43 The Committee was advised that an additional charge of between £299 and £4400 could be levied on licensed premises that traded beyond a designated time – with fees being linked to the rateable value of the premises.

3.44 The Committee was advised that due to the relatively low rateable value of relevant premises, the exemptions and discounts that must be applied, and the statutory consultation and administration costs involved, a levy would generate a revenue of £10,000 or less which must be divided between the Council and the Police.

3.45 The Committee also heard that the statutory processes required to advertise, consult and introduce a Late Night Levy would likely absorb any revenue generated for the first several years.

3.46 As a result, the Committee determined that it was not appropriate to proceed with any further investigation into Late Night Levies.

3.47 Evidence

3.48 The statutory guidance that accompanies the Licensing Act states that licensing authorities should look to gather evidence from various sources including: -

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots, statistics on local anti-social behaviour offences,
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- residents' questionnaires;
- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- capacities of different premises at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

3.49 Crime and Disorder Statistics

3.50 Appendices 5 and 6 details the current and recent crime and disorder statistics for the town centre area defined as the Night Time Economy area.

3.51 Representatives of Cleveland Police have been invited to address the Licensing Committee and will be available to answer Member's questions on this matter.

3.52 It can be seen from the crime and disorder figures that crime, anti-social behaviour and violence against the person are all at lower levels than those when the Licensing Act was first introduced.

3.53 Whilst the total number of incidents of crime has fallen it is not possible to determine whether this is due to a general improvement in the area or as a consequence in the reduction in the number of people now visiting the Night Time Economy.

- 3.54 Anecdotally, licensees and taxi drivers have said that the town centre is much quieter than it used to be but there is no actual evidence to support this. As such, it is not possible to say whether crime and disorder is proportionately better or worse than it was previously.
- 3.55 As the adoption of an EMRO must largely be based on the impact of the Night Time Economy on crime and disorder it is essential that there is a clear understanding of the context of current trends.
- 3.56 To be able to robustly defend its decision, the Council must be sure that crime and disorder is at a level whereby the adoption of an EMRO is appropriate.
- 3.57 It would be difficult for the Council to defend a decision to introduce an EMRO when crime and disorder has improved since the Licensing Act, and its associated longer licensed hours, were introduced in 2005.
- 3.58 To successfully argue that an EMRO is now appropriate on the grounds of crime and disorder, it would be necessary to prove that crime levels are proportionately greater than they used to be.
- 3.59 For evidential purposes, and to withstand any legal challenge, such a determination could not be based on anecdotal perceptions only. It would be necessary to obtain some researched evidence that could prove how busy the Night Time Economy is, compared to previous years.
- 3.60 Environmental Health complaints
- 3.61 The Council's Environmental Health Team has received no noise complaints concerning late licensed premises still trading after 2:00 a.m. in the past three years.
- 3.62 The only noise complaints received during that time related to a nightclub that has now ceased trading. Other noise complaints were received prior to this, from time to time, but were addressed through discussion with the premises involved.
- 3.63 Current Trends
- 3.64 The Council's current Licensing Policy states that no new alcohol licences will be granted for after 2:00 a.m. although, as required by law, the policy also states that every application would be taken on its own merits.
- 3.65 The Policy has also categorised the town centre as a Cumulative Impact Area, meaning that any applicant for a new alcohol licence must demonstrate to the Council that the granting of a licence would not have a detrimental impact on the licensing objectives.
- 3.66 Whilst being a Cumulative Impact Area does not, in itself, prevent new applications being made, there has been no new applications for alcohol licences for after 2:00 a.m. in the past three years.

3.67 Current Licensed Hours

- 3.68 As can be seen from Appendix 4, there are five premises currently licensed until 3:00 a.m. (of which one is a restaurant and one has been closed for considerable time), one is licensed until 3:30 a.m. (another restaurant) and ten are licensed until 4:00 a.m. (of which three are currently closed).
- 3.69 If this situation had been planned, it would be referred to as a ‘staggered hours’ approach – whereby revellers drift home over a number of hours as premises close at different times. Whilst, no doubt, many revellers will use the opportunity of one premises closing to move onto another, others will return home.
- 3.70 This staggered approach can allow for takeaways and taxis to cope with a steady demand spread out over several hours – culminating in the final closure of the remaining premises at 4:00 a.m.
- 3.71 If an EMRO is introduced with a 2:00 a.m. terminal hour, all revellers who currently go home between 2:00 a.m. and 4:00 a.m. will be required leave at 2:00 a.m.
- 3.72 This will, undoubtedly, lead to a greater number of people moving onto the streets at one time – increasing the demand on takeaways and taxis.
- 3.73 This is exactly the situation that the town was in before the Licensing Act was introduced in 2005 and is a problem the Government was attempting to resolve by the abolition of prescribed closing hours.
- 3.74 Prior to the abolition of prescribed closing hours, crime and disorder peaked at 2:00 a.m. when all late-licensed premises closed at the same time.
- 3.75 Those wishing to argue against an EMRO will, no doubt, point to the fact that crime and disorder has reduced since longer, more flexible, opening hours were introduced and that a return to a fixed terminal hour of 2:00 a.m. may lead to a return to more crime and disorder.

3.76 Independent Evaluation

- 3.77 In 2005, and again in 2009, the Safer Hartlepool Partnership funded an independent study into the Night Time Economy and its findings and conclusions were quoted when the EMRO was considered in 2013.
- 3.78 If Members believe that an EMRO may be appropriate, it is recommended that a further similar study be commissioned that can provide Council with a full and independent evaluation of the current Night Time Economy.
- 3.79 Any decision to adopt an EMRO without having some form of comprehensive comparative research would leave the Council open to legal challenge.

3.80 The 2009 report cost around £10,000 and therefore it could reasonably be expected to cost a similar amount, or more, to produce an updated report in 2017.

3.81 Taxi Marshals

3.82 For approximately seven years, a taxi marshalling service operated in Church Street between midnight and 4:30 a.m. on Saturday nights.

3.83 This was provided by a local security company with funding being provided by a variety of sources including the Safer Hartlepool Partnership and, most recently, through a Public Health grant.

3.84 In 2016, the final funding source was withdrawn and by the end of 2016 the marshalling service had come to an end.

3.85 The taxi marshals were highly regarded by both the public and the taxi trade but, without further funding being made available, there is no prospect of their return.

3.86 Options Available to the Licensing Committee

3.87 As detailed above, the final decision to adopt an EMRO must be made by full Council. The Licensing Committee's role is to decide whether an EMRO should be recommended.

3.88 The Licensing Act and its statutory guidance make clear that any decision about an EMRO must be evidence based.

3.89 Whilst there may be a perception that Hartlepool's Night Time Economy has serious issues with crime and disorder, the actual evidence provided in this report does not support the perception.

3.90 The Association of Licensed Multiple Retailers, and others, have publicly stated that they will vigorously oppose any attempt to introduce an EMRO anywhere in the country and a 'fighting fund' has been set up to fight this through the Courts.

3.91 Any decision to push forward with an EMRO must therefore be taken in the knowledge and belief that it would be legally challenged via a Judicial Review.

3.92 The House of Lords recent review of the Licensing Act heavily criticised the EMRO process and made the following comments that Members may consider pertinent: -

'no one we heard from believed EMROs were implementable in their current form.'

‘We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed.’

- 3.93 Having considered this report, the Licensing Committee can either: -
- a) Decide that there is insufficient evidence to support the adoption of an EMRO; or
 - b) If it considers there is, or may be, sufficient evidence to support the adoption of an EMRO, the Committee can move forward with further consultation and evidence gathering as required by the Licensing Act’s statutory guidance.
- 3.94 In order to comply with this guidance, it is not possible, at this stage, to recommend an EMRO to full Council.

4. RISK IMPLICATIONS

- 4.1 There are no risk implications at this stage

5. FINANCIAL CONSIDERATIONS

- 5.1 If the Licensing Committee was minded to progress with the consideration of an EMRO, it is recommended that a detailed study of the Night Time Economy should be undertaken – similar to those carried out in 2005 and 2009. This would likely cost between £10,000 and £15,000 (based on the cost of previous similar work). No budget is currently available to cover this cost.
- 5.2 Based on experiences from 2013, any further development of an EMRO will require the allocation of additional staffing resources that are not currently available.
- 5.3 Should an EMRO be introduced, the cost of defending a Judicial Review brought by the licensing industry is estimated to be around £100,000.

6. LEGAL CONSIDERATIONS

- 6.1 The consideration, adoption and implementation of an EMRO must follow the legal processes detailed in the Licensing Act 2003 and its associated statutory guidance. Any perception from the licensing industry that Hartlepool is considering an EMRO would result in a legal challenge.

7. RECOMMENDATIONS

- 7.1 That Licensing Committee does not recommend the adoption of an EMRO to full Council.

8. REASONS FOR RECOMMENDATION

- 8.1 For an EMRO to be considered appropriate, it is essential that the recommended pre-requisites detailed in the Act's statutory guidance are met.
- 8.2 For an EMRO to be considered appropriate, the Council must be satisfied that it is needed to promote the Act's licensing objectives.
- 8.3 Evidence will be required to justify such a decision. Members have seen that the levels of crime and disorder in the Night Time Economy are lower than they were when the Act was implemented. Essentially, since longer hours were introduced, crime and disorder has reduced.
- 8.4 In order to demonstrate that current crime figures justify an EMRO it would be necessary to prove that crime is proportionately worse than it has been in previous years and, potentially, that it is worse than can reasonably be expected from any similar Night Time Economy.
- 8.5 In addition, there is still a strong industry wide opposition to EMRO's in principle, and the Council would, without doubt, face a significant legal challenge.
- 8.6 With this in mind, the Licensing Committee should only recommend the adoption of an EMRO if it was satisfied that there is sufficient evidence and that there is a strong probability that the Council could successfully defend its decision through the Courts.
- 8.7 In the absence of compelling evidence that supports the adoption of an EMRO it would not be appropriate for the Licensing Committee to recommend its adoption.

9. BACKGROUND PAPERS

- 9.1 *House of Lords Select Committee on the Licensing Act – Report of Session 2016-17*

Report into Hartlepool's Night Time Economy 2005 – Evidence Led Solutions

Report into Hartlepool's Night Time Economy 2009 – Evidence Led Solutions

Licensing Committee report and minutes – 7th May 2013

Licensing Committee report and minutes – 6th November 2014

Licensing Committee report and minutes – 24th February 2016

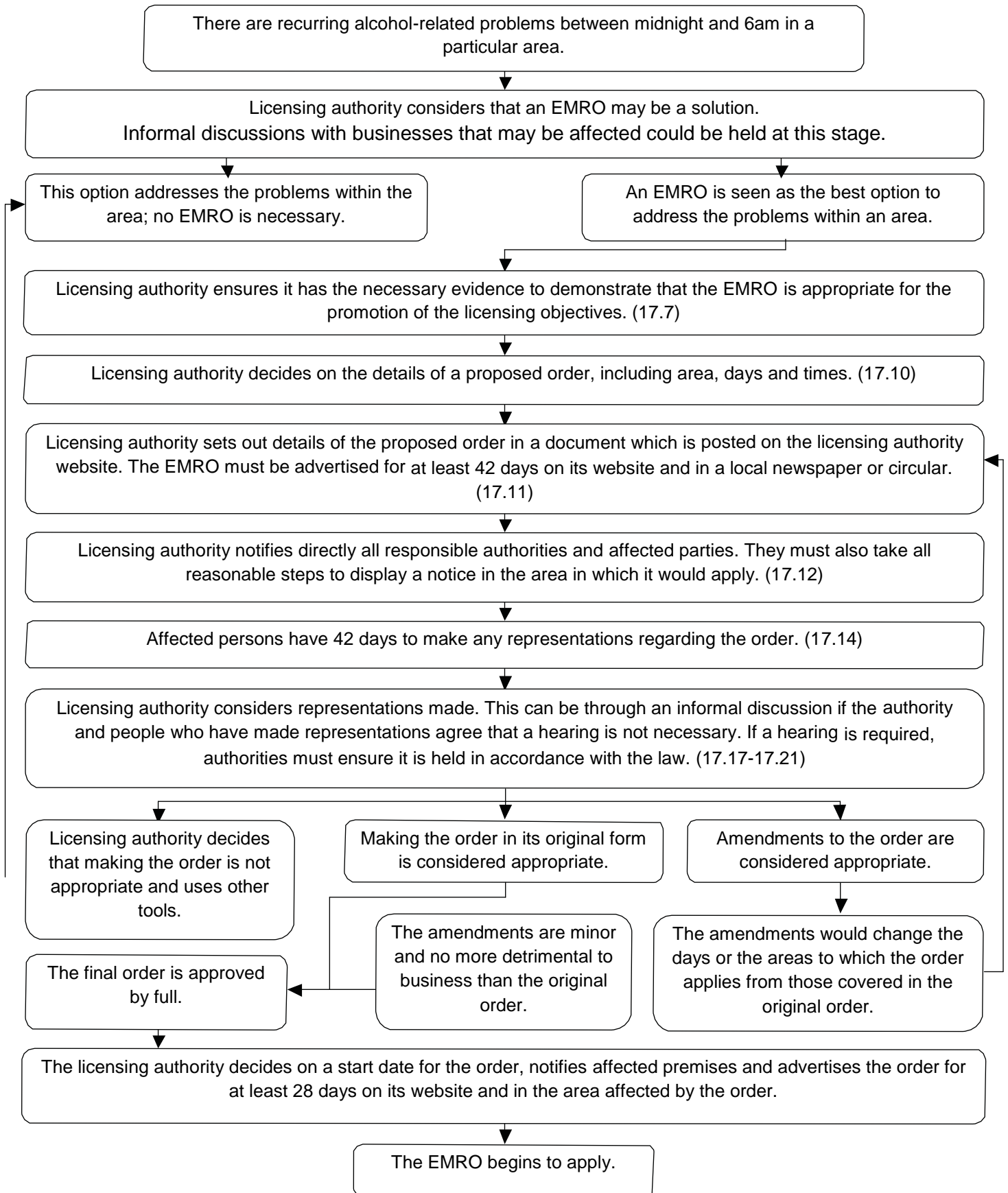
Licensing Committee report and minutes – 29th March 2017

10. CONTACT OFFICER

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EMRO Process Flowchart



4.2 Appendix 2

Licensing Act Committee Hearing

Tuesday 7th May 2013

| | |
|-------------------------|--|
| Members: | Ray Wells (Chair) Paul Beck, Rob Cook, Keith Dawkins, Mary Fleet, Steve Gibbon, Gerard Hall, George Morris and Sylvia Tempest |
| Purpose of the Hearing: | To consider representations about the likely effect of the making of the proposed Early Morning Alcohol Restriction Order on the promotion of the licensing objectives |
| Officers present: | Louise Wallace, Director of Public Health Chris Hart, Drug and Alcohol Manager Sylvia Pinkney, Public Protection Manager Ian Harrison, Principal Trading Standards and Licensing Officer Lisa Oldroyd, Community Safety Research and Development Officer Rachel Parker, Community Safety Research Officer Tony MacNab, Solicitor Jo Stubbs, Democratic Services Officer |
| Others present | <u>Cleveland Police Representatives</u> Temporary Chief Inspector Lee Rukin Sergeant Jonathan Wrigley PC Andrew Thorpe <u>National Licensees Representatives</u> Jim Cathcart, British Beer and Pub Association John Coen, Ford and Warren Nigel Connor and Mark Frankland, J D Wetherspoons John Gaunt and Tim Shield, |

| | |
|--|---|
| | <p>John Gaunt and Partners Jonathan Smith, Poppleston Allen Rob Summers, Punch Taverns</p> <p><u>Local Publicans</u></p> <p>S Allan, Anthony Andrews, Linda Baker, Richard Coates, Kevin Reid, Darab Rezai, J Smith, Kevin Walker, Michael Walker, Trevor and Debra Wilding</p> <p>Leanne Davis, Durham County Council Pam Rose, Darlington Borough Council</p> <p>T Gilbert and Mark Scott</p> |
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Decision:

The Public Protection Manager gave details of the results of the recent public consultation into the making of an Early Morning Alcohol Restriction Order (EMRO) for the town centre area between 2am and 6am. On 17th December 2012, following a request from Cleveland Police and the Director of Public Health the Licensing Committee had approved the commencement of a formal 6-week consultation process into an EMRO in the town centre area, defined in the Council's licensing policy as the Cumulative Impact Area (CIA). 13 premises serving alcohol would be affected by this EMRO. 35 representations were received, all of which were appended to the report. Details were given of the statutory guidance surrounding EMROs and various issues for consideration by members. Members were informed of the options available to them following consideration of the evidence.

At the commencement of the meeting the Chair read a brief statement as follows:

"The purpose of today's meeting is to hear representations concerning the likely effect of making an Early Morning Alcohol Restriction Order on the promotion of the licensing objectives.

I would remind everyone that these are: -

Prevention of crime and disorder
Prevention of public nuisance
Public safety
Protection of children from harm

I am informed that those who submitted representations concerning the process surrounding the initial proposal of the Order were written to and

advised that any further submissions concerning the process should be made in writing as they would not be permitted at today's hearing.

That is not to say that such submissions will not be considered but rather they will be considered under legal advice at a later stage in this process.

In order to ensure that all parties have an opportunity to speak I will be very firm on this point.

Today's hearing is regulated by the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

I understand that some parties have indicated that they intend to introduce witnesses to explain certain points so I would ask that you introduce yourself, and your witness, when you are asked to present your representation.

I am mindful that the regulations state that this should take the form of a discussion, led by the authority, and that cross-examination shall not be permitted unless the authority considers that it is required.

If anyone wishes to clarify any points raised by a person who has made representations I ask that they raise their hand and address issues directly to myself as Chair. This may or may not lead to cross examination"

Cleveland Police

Temporary Chief Inspector Lee Rukin presented the Police case in support of an EMRO which would in his opinion help to combat crime and disorder and promote policing objectives namely to keep people safe, reduce crime and anti-social behaviour and secure financial stability and value for money. Statistical information on crimes in the CIA was given by the Community Safety Research Officer showing that although crime as a whole had fallen since 2005/6 there had been a 12% increase in violent crimes in the CIA between 3am and 6am since 2005, the year in which the Licensing Act and late-night opening came into force. Over a third of crime taking place across Hartlepool between 3am and 6am was happening in the CIA.

Sergeant Wrigley and PC Thorpe went on to give their personal experiences of policing the night-time economy. A number of initiatives had been tried to combat crime and anti-social behaviour in the CIA. These included Direction to Leave notices, drink banning orders, Barred from one, Barred from all, the closure of parts of Church Street to traffic, taxi marshalling and Hartlepool Town Pastors. Temporary Chief Inspector Rukin advised that some of these initiatives had been funded by external sources such as the Safer Hartlepool Partnership and were quite resource intensive in terms of police time and money. Relations between Cleveland Police and the Hartlepool Licensees Association (HLA) were good but not all premises were part of the HLA. In order for police initiatives to work everybody needed to be involved and pushing in the right direction. Temporary Chief Inspector Rukin also explained that the night-time economy was a huge draw on police resources. Although he accepted that this was not part of the licensing objectives it did affect them as without adequate resources on the ground police were unable to promote the licensing objectives as effectively as they might otherwise do. There could

also be a knock-on effect on other areas of the town if resources were concentrated on the CIA to the detriment of outlying areas.

The following issues were raised by members:

- Best Bar None – this was a voluntary quality improvement scheme used successfully in Durham. However despite attempts by Licensing officers to introduce the scheme to Hartlepool there had been virtually no interest from licensees in Hartlepool. Temporary Chief Inspector Rukin explained that while the police would support such an initiative Durham already had 2am closing so the areas were not comparable in terms of night-time economy. He also highlighted that Best Bar None was run by the industry rather than the police and had considerable administrative costs attached to it.
- What evidence was there that crime and anti-social behaviour would have occurred had Direction to Leave notices not been issued? Temporary Chief Inspector Rukin indicated that Direction to Leave notices were issued as the result of an incident inside a licensed premises at which the police were not present. Door staff would hand the individual involved over to the police who would secure them and issue a Direction to Leave notice to cover the rest of that weekend. If the individual's behaviour was more extreme they would be arrested but this was seen as a more severe course of action to take.
- How often did police meet with licensees and were there regular meetings? How were the licensing objectives promoted in conjunction with licensees? Sergeant Wrigley reported that officers would visit licensed premises on Friday and Saturday nights. They would then contact individual premises during the first half of the following week to ascertain any problems or concerns. If incidents were found to be ongoing police would arrange a meeting with representatives of the premises in question and an action plan formulated. Only if this had not worked would a review of the conditions on the licence be sought via Licensing Sub-Committee. Temporary Chief Inspector Rukin was of the opinion that granting the EMRO would not damage the licensing industry in Hartlepool. He felt that the drinking culture had changed in recent years with people tending to come out after midnight. Early closing might encourage people to come out earlier and finish at a more sensible time thereby easing the burden on police resources in the early hours.
- If an EMRO was introduced would the number of officers on duty reduce? Temporary Chief Inspector Rukin advised that the same number of officers would be on duty across the town but could be better utilised if they did not have to concentrate on the night-time economy.
- Do the police close establishments following a major incident? A forced closure was only undertaken in extreme circumstances due to the impact on business and the livelihood of the owner and workers. However voluntary closures had happened in the past. Temporary Chief Inspector Rukin was nevertheless satisfied with the powers available to police to close premises should that be deemed necessary.

- Would there be enough officers available to deal with a mass of drinkers in the Church Street area at 2am? Temporary Chief Inspector Rukin indicated that the police could cope but he was unable to speak for the taxi trade.
- If people were coming out earlier but drinking for the same amount of time would there really be a reduction in anti-social behaviour? Would the problems between 3am and 6am not just be moved to earlier in the night? Temporary Chief Inspector Rukin felt that an EMRO would not fix the problem but was an additional tool. Early closing would encourage people to start drinking in town rather than preloading on cheap alcohol at home and arrive in town already under the influence. Also the police would be better able to protect the public and promote the licensing objectives before 2am
- Was this a problem with police resources rather than promotion of the licensing objectives? Temporary Chief Inspector Rukin reported that police had the maximum amount of resources available to them til 3am. After this they moved onto the nightshift and concentration on the night-time economy meant they could not engage in proactive work elsewhere. He felt this was no longer sustainable

Director of Public Health

The Director of Public Health reported an increase in alcohol-related injuries and illnesses over the last 10 years. She acknowledged that health was not a licensing objective but felt that the introduction of an EMRO would help alleviate these problems. Later opening hours meant a longer time period to consume alcohol which could lead to a reduction in public safety and a possible increase in harm to the public. Information supplied by the minor injuries unit showed incidents of assault tended to coincide with the night-time economy and a quarter of these incidents could be linked to licensed premises in Hartlepool.

Local Licensees

Mr Walker, proprietor of the Little Black Book, confirmed that he was against the introduction of an EMRO due to the effect it might have on his business and others. The Police had acknowledged that crime had reduced significantly so this was not an issue in terms of the licensing objectives. He also noted that there had been no study on any specific premises. He asked whether a reduction in hours might not lead to incidents in crime and anti-social behaviour increasing to what they had been 10 years ago before the Licensing Act 2003 had come into force. Temporary Chief Inspector Rukin acknowledged that crime had dropped in the last 10 years but a third of all crime between 3am and 6am was taking place in the CIA. Mr Walker commented that although this was still a smaller number of crimes overall when compared to 10 years ago but Temporary Chief Inspector Rukin commented that one crime was still too many.

Linda Baker, local proprietor of a licensed premises, felt that reducing hours for the sale of alcohol could lead to threats and abuse to bar staff if premises were

open but unable to sell alcohol. This could lead to an increase in police call-outs between 2am and 4am. It could also unfairly affect many of her customers who would come for a drink at the end of a nightshift. She advised that there had been no incidents in her establishment over the previous 18 months. Temporary Chief Inspector Rukin felt that it would not make economic sense for licensed establishments to open until 4am if their licence to sell alcohol had run out at 2am, although this would be a decision for the proprietors to make. Ms Baker commented that the introduction of an EMRO would probably lead to the closure of her premises altogether as approximately 80% of her trade would be lost.

Darab Rezai, Chair of the Hartlepool Licensees Association (HLA), spoke against the introduction of an EMRO. He noted that the average age of drinkers in Hartlepool was 18-25 so they did not know any different than late night closing. Members of the HLA worked hard to follow the law and support legislation. By reducing licensing hours to 2am people would be tempted to hold parties at private premises such as garages or warehouses using alcohol cheaply bought at supermarkets. Such gatherings would not be controlled in terms of fire safety, noise pollution and CCTV. Mr Rezai also felt that an increase in parties in houses could lead to health and safety problems and that by drinking in front of young children a generation of binge drinkers could be encouraged. He also referred to the comments by Ms Baker regarding staying open past 2am saying that this could lead to drinkers moving from alcohol to legal highs thereby shifting the problem onto another cause. The HLA were fully supportive of the police's efforts to combat crime and anti-social behaviour in the CIA but felt that an EMRO in that area would just push the problems associated with alcohol away from the centre. He would be minded to support a restriction to 3am but felt 2am was a step too far. The HLA would also be happy to implement Best Bar None.

The following issues were raised by members:

- Would earlier opening hours not lead to people coming out earlier thereby spending more money in licensed premises? Mr Rezai advised that people would be more inclined to go to places with later opening hours such as Sunderland. The HLA's attempts to make drinking a more social activity were being stymied by the availability of cheap supermarket alcohol. This combined with a change in hours could encourage the better element to go elsewhere leaving the troublemakers in Hartlepool
- Concerns had been raised about people turning to drugs and children drinking after seeing their parents do so. Both of these were unfair inaccurate statements. Licensees tended to overcharge for soft drinks thereby encouraging people to drink alcohol. Mr Rezai indicated that soft drinks were charged at the same level as alcohol. He also noted that he had been referring to excessive drinking in front of children and commented that the culture of going for a meal with the family no longer existed.
- Were there any particular issues at Mr Rezai's premises? They operated a rigorous dress code and would bar people where necessary.

- What evidence was there that people would go home at 2am and have parties and that this would be detrimental? If such parties were already being held what harm would an EMRO do? Mr Rezai indicated it would lead to an increase in private parties and the associated problems
- What help would the HLA need to introduce Best Bar None? Mr Rezai would take this proposal to his members in order to ascertain whether they would support it.
- Could Mr Rezai suggest any other initiatives the police and licensing department could use? Premises tended to use their own individual initiatives such as barring, dress codes and being anti-drugs and anti-binge drinking.
- If an EMRO was introduced to Hartlepool where would drinkers go as an alternative? Middlesbrough, Newcastle and Sunderland were all open late. An EMRO would encourage more people to travel further afield and adversely affecting Hartlepool's night-time economy. A taxi for a large number of people to go out of town did not cost a lot
- What assurances did members have that the HLA would work to reduce crime and disorder? Mr Rezai had been Chair of the organisation for 2 months and had met with Police and Licensing Department Officers. He assured members he was serious about controlling crime and operating venues properly.
- 40% of licensed premises had closed since the introduction of late opening. Why was this? Mr Rezai believed this was a consequence of supermarkets selling alcohol at prices with which licensees could not compete. Members commented that an EMRO would not affect the price of supermarket alcohol but Mr Rezai indicated that it would put more strain on licensed premises as people would not come out any earlier than they do now.
- Was Hartlepool's reputation in terms of alcohol-related crime and anti-social behaviour justified? Mr Rezai recalled how bad things had been when he had first come to Hartlepool in 1986. Since then there had been improvements but the HLA were keen to make the situation even better. He also noted that when crime and anti-social behaviour had been worse there had been no late opening.
- Was every licensee in Hartlepool opposed to an EMRO? Only 2 of the 50 licensees present at a recent HLA meeting had supported an EMRO and Mr Rezai believed that they were now against it.

Members briefly adjourned the meeting. Upon returning the Chair informed those present that based on the evidence provided thus far they were minded not to approve the introduction of an EMRO

National Licensees

Jonathan Smith from Poppleston Allen spoke on behalf of the Association of

Licensed Multiple Retailers and Stonegate. He reminded members that just as when considering whether to grant individual premises a licence there needed to be compelling evidence that an EMRO was appropriate. He referred to the statistical information provided by the police which he felt was incomplete in terms of information on times and days of incidents. However these figures did show a 45% reduction in crime in the CIA between 9pm and 6am since 2004/5. This compared to a 43% fall in crime in areas outside the CIA at those times. Therefore there had been more incidents of crime and anti-social behaviour before the introduction of the Licensing Act suggesting that crime had reduced with the longer opening hours. The Police had asserted that this was not a resources issue but he felt that it was. They had also been unable to confirm whether taxis would be able to cope with a mass exodus at 2am. Mr Smith advised on behalf of his clients that they would be happy to work with the police and council on initiatives such as Best Bar None but felt that an EMRO would be unnecessary and inappropriate based on the statistics provided by the police.

Tim Shield from John Gaunt and Partners spoke on behalf of Marstons. Although his company's premises in Hartlepool would not be directly (remove) be affected by an EMRO they felt it would bring no benefit to Hartlepool. In difficult economic times it would have a detrimental impact on licensed premises, taxis and takeaways. Crime in Hartlepool's CIA had dropped by 55% compared to a 28% reduction nationally. He acknowledged resourcing difficulties being experienced by the police but this was not something members could take into consideration when making their decision. It was the police's job to protect law abiding citizens. Mr Shield's clients would be happy to support any proposed initiatives including Best Bar None.

Nigel Conner spoke on behalf of the J D Wetherspoons legal department. He felt that there was a significant economic risk to Hartlepool's licensed premises should an EMRO be adopted. Police had previously said they were reluctant to close premises for one evening but were asking for permission to close all licensed premises every evening after 2am. This would displace any current problems outside the CIA and lead to a concentrated closing time. Without a gradual dispersion a flashpoint could be created which might lead to problems. The Chair of the HLA was committed and Mr Conner's clients would be happy to support him. An EMRO was a powerful tool which should only be used as a last resort.

Rob Summers spoke on behalf of Punch Taverns. Their only affected premises was the Jacksons Arms which had never been the subject of a review and never had any issues with the police, residents or responsible authorities. An EMRO was a blunt instrument which would affect good and bad premises alike. Five premises had been reviewed over the last 20 months and no reductions in hours had been made but now members were suggesting reducing trading hours for all premises. This was disproportionate and inappropriate. The Jacksons Arms was a well run establishment and it would be unfair to reduce their hours. The police would need to juggle their resources better in the future.

Members retired to deliberate their decision. Upon returning the Chair read the following statement:

“Hartlepool Borough Council does not believe that any level of violence or anti social behaviour should be regarded as an acceptable or inevitable consequence of a vibrant night time economy.

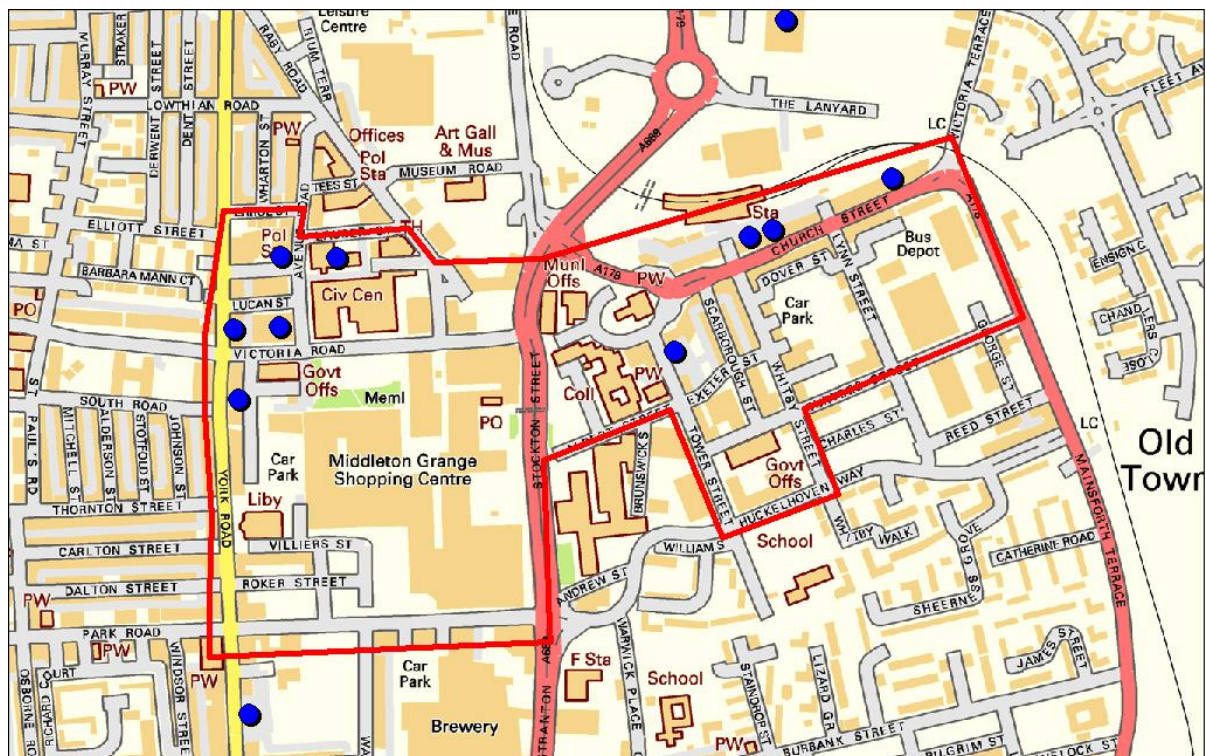
The Licensing Committee recognises the significant improvements that have been made to the town centre in terms of reducing violence but will consider the use of every tool made available to it to make Hartlepool’s town centre a safer place to live, work and visit.

The Licensing Committee has considered the representations made by all parties and is satisfied that an Early Morning Alcohol Restriction Order could play a role in reducing violence still further but is mindful of the concerns raised by local licensees that a reduction in opening hours, in the current economic climate, could have serious consequences for the viability of their businesses.

The Licensing Committee has determined NOT to recommend the introduction of an Early Morning Alcohol Restriction Order at the current time but intends to revisit the issue next year to establish whether local licensees, and in particular the Hartlepool Licensees Association, have taken responsibility for continuing the previous improvements including an in-depth look at the Best Bar None scheme.

CHAIR

Cumulative Impact Area/Night Time Economy Area

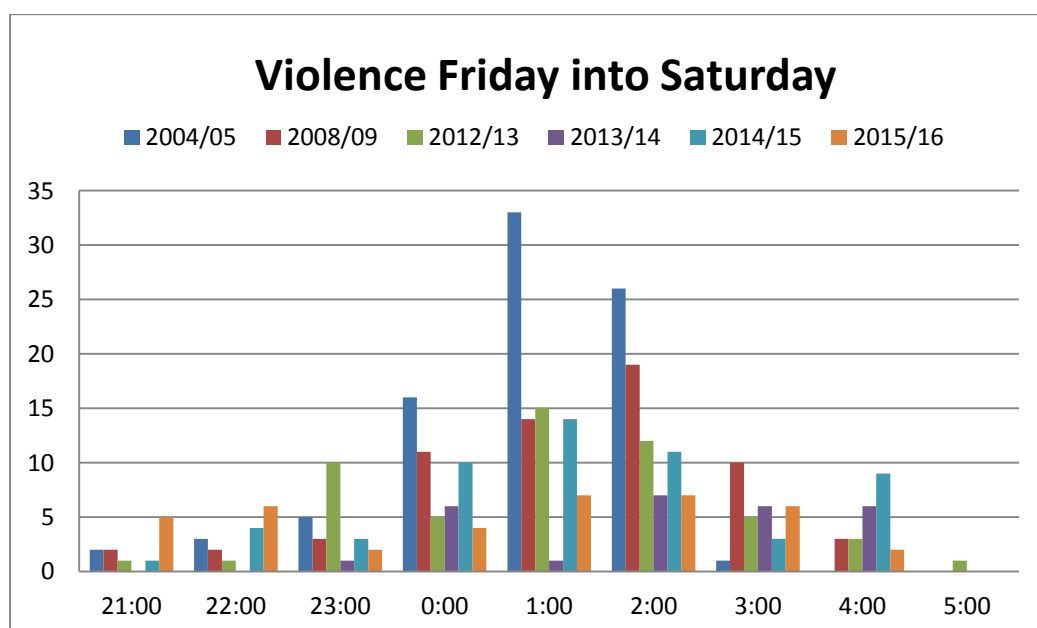
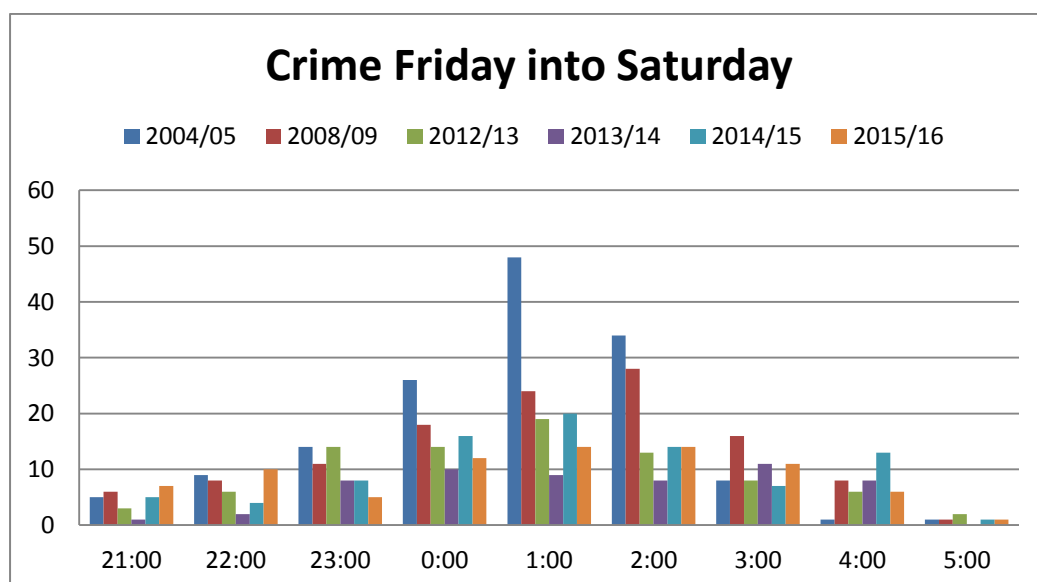
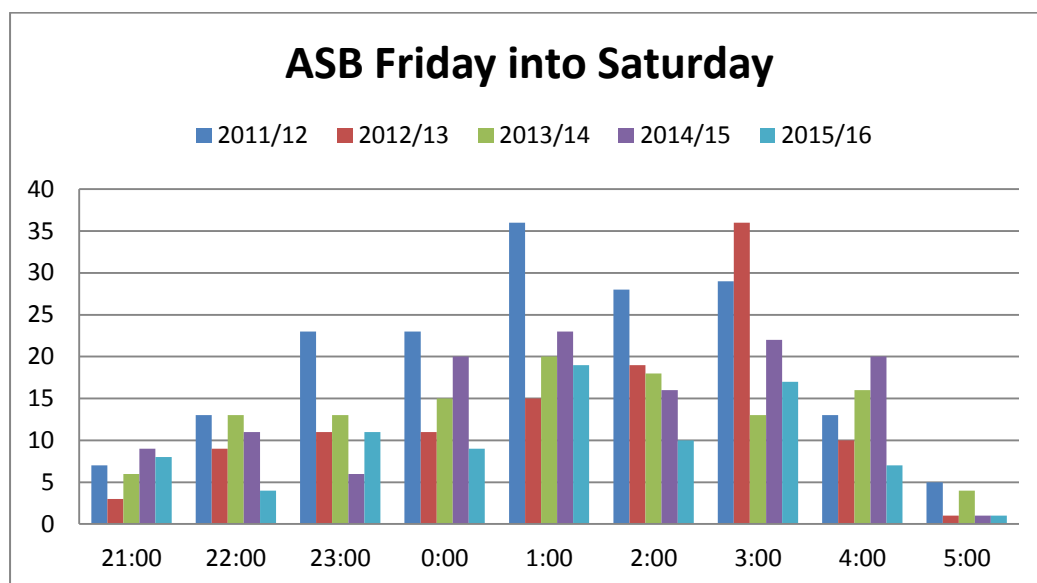


4.2 Appendix 4

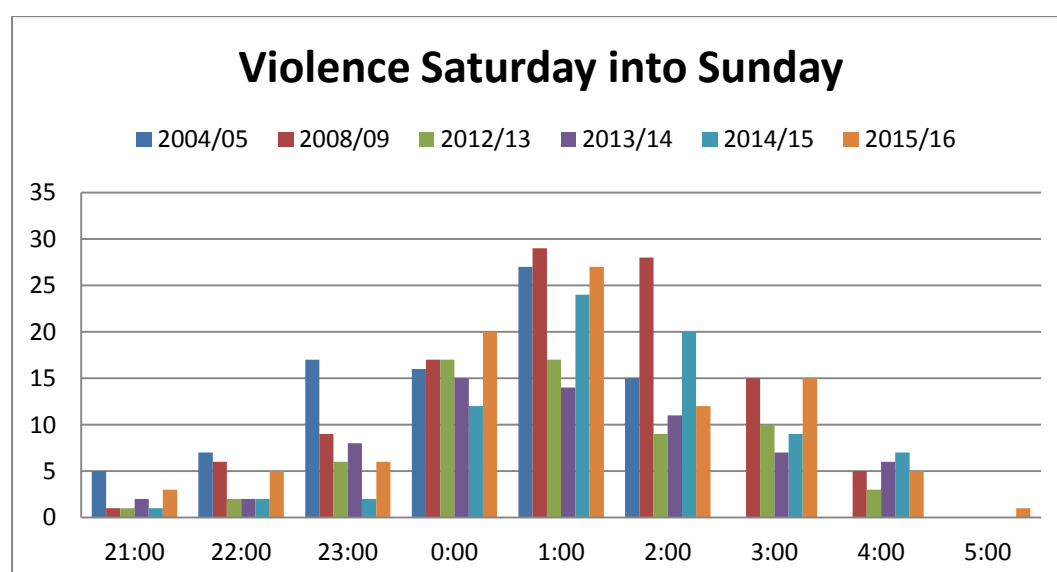
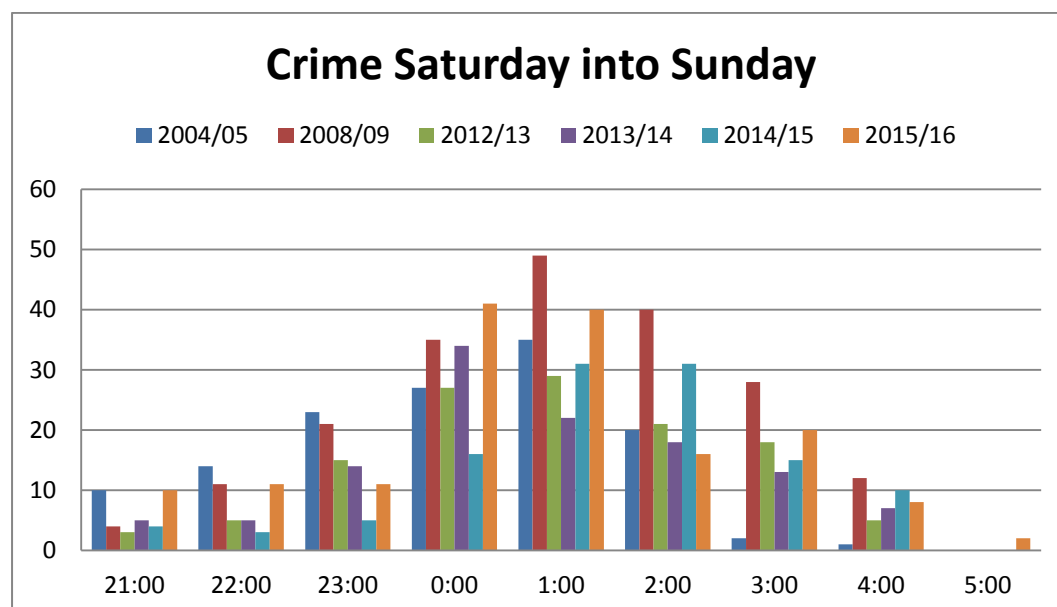
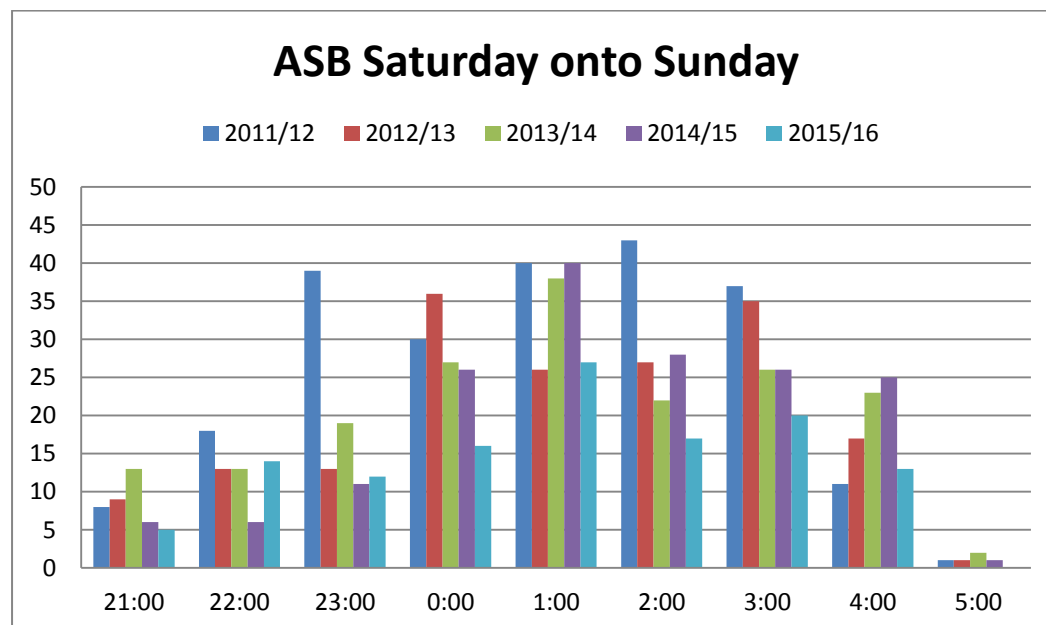
Late Licensed Premises in Hartlepool (Alcohol)

| Business | Address | Latest licensed hour (alcohol sales) | Current status |
|---------------------------|--------------------------|--------------------------------------|----------------|
| | | | |
| Reds | 22-23 Church Street | 3:00 a.m. | Closed |
| Little Black Book | Whitby Street | 3:00 a.m. | Open |
| Idols | 35 Church Street | 3:00 a.m. | Open |
| Golden Gate | 74 Church Street | 3:00 a.m. | Open |
| Showroom | 2 Victoria Road | 3:00 a.m. | Open |
| Sheara's | 69-72 Church Street | 3:30 a.m. | Open |
| Skyy Bar | Avenue Road | 4:00 a.m. | Open |
| Pulse | 25 Church Street | 4:00 a.m. | Closed |
| Hillcarter | 31-32 Church Street | 4:00 a.m. | Open |
| Reflections | 56 Church Street | 4:00 a.m. | Open |
| Jax Bar | 121-122 Middleton Grange | 4:00 a.m. | Closed |
| Diablos | 5-6 Victoria Road | 4:00 a.m. | Closed |
| Manhattan (was Bar Paris) | 6-8 Victoria Road | 4:00 a.m. | Open |
| Loons | 10 Victoria Road | 4:00 a.m. | Open |
| The Bunker | 51-52 Church Street | 4:00 a.m. | Open |
| Grand Hotel | Victoria Road | 4:00 a.m. | Open |
| | | | |

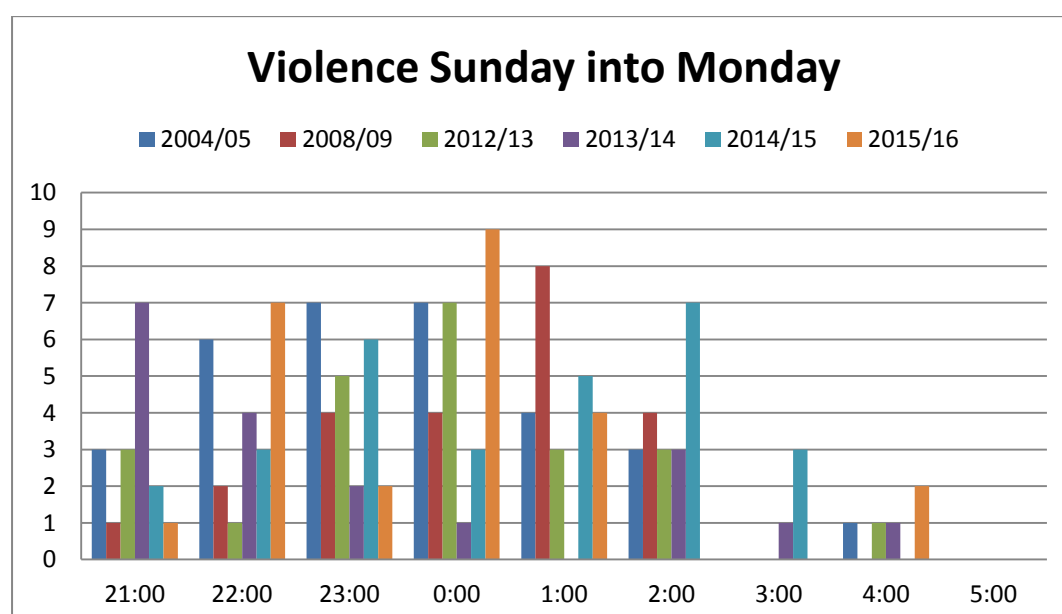
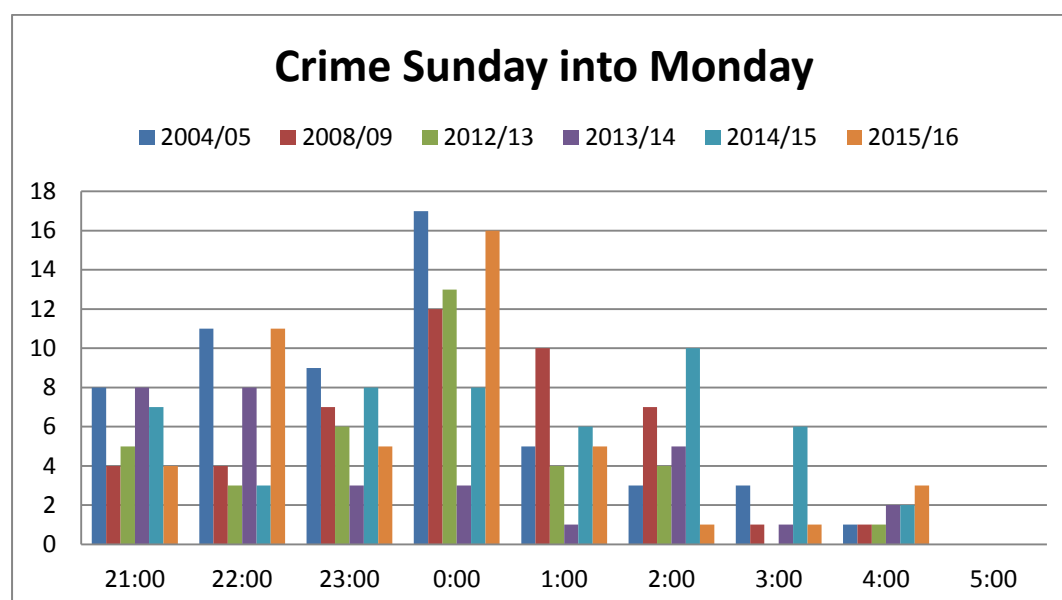
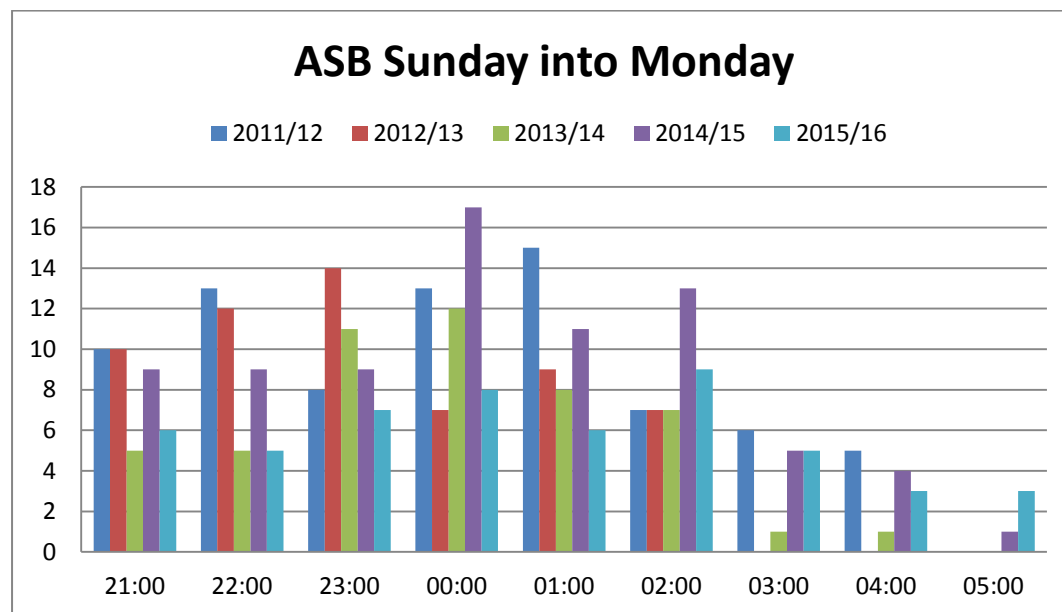
Crime and Anti-social Behaviour in the Cumulative Impact Area

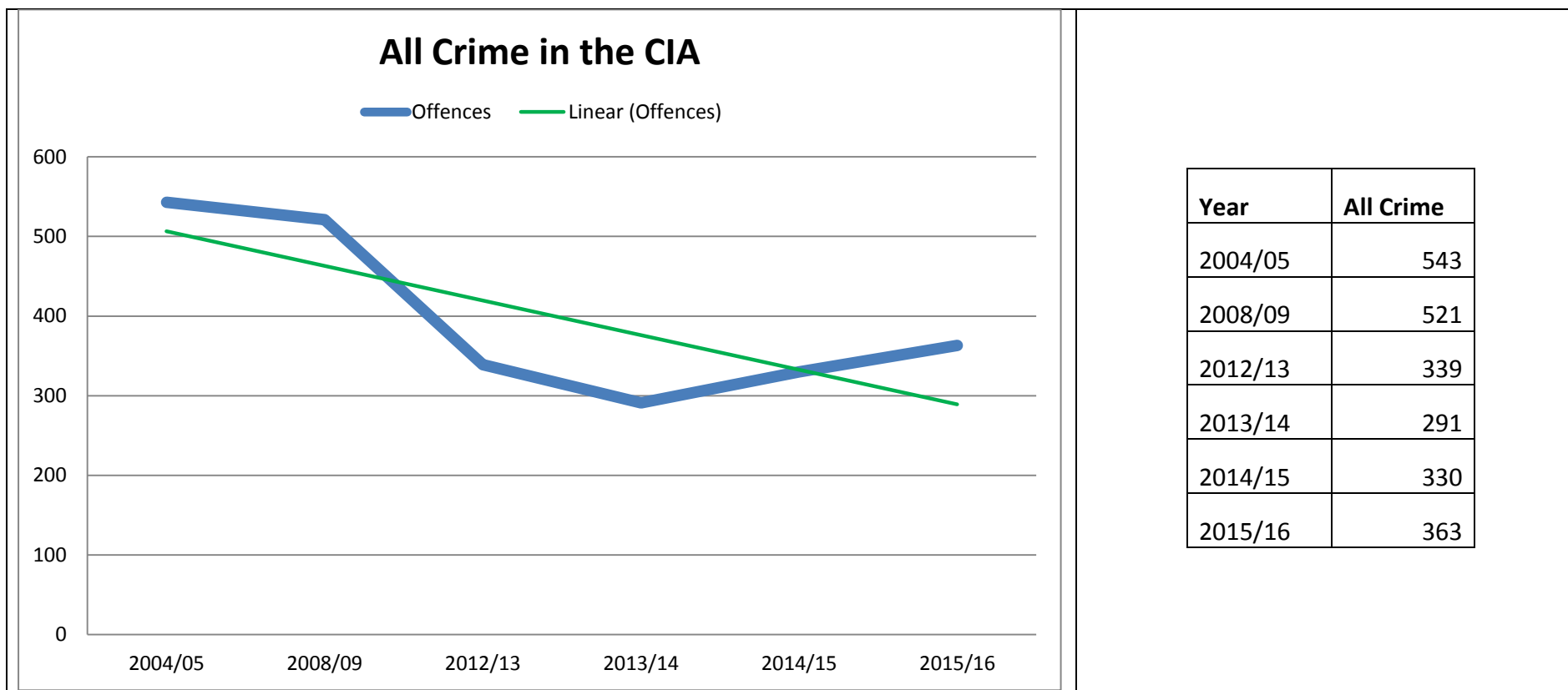


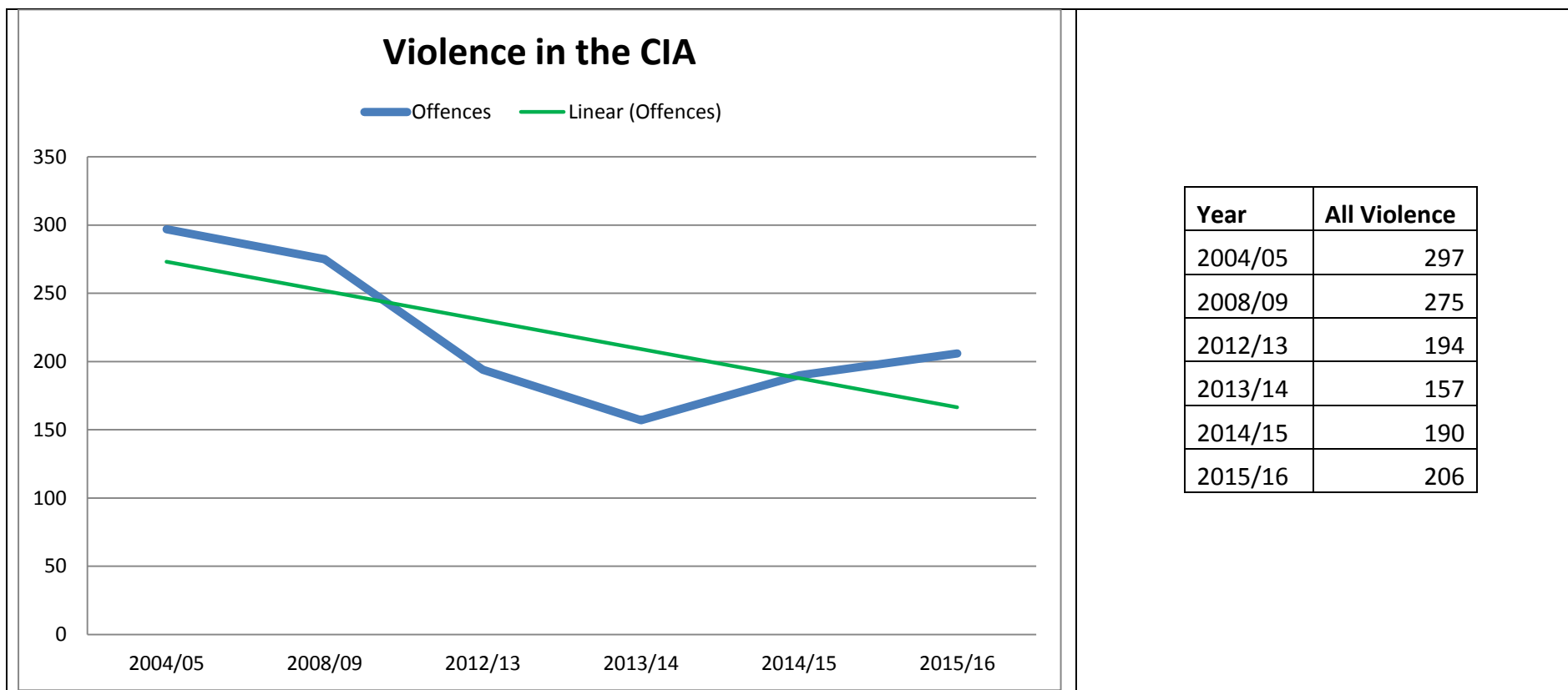
Crime and Anti-social Behaviour in the Cumulative Impact Area

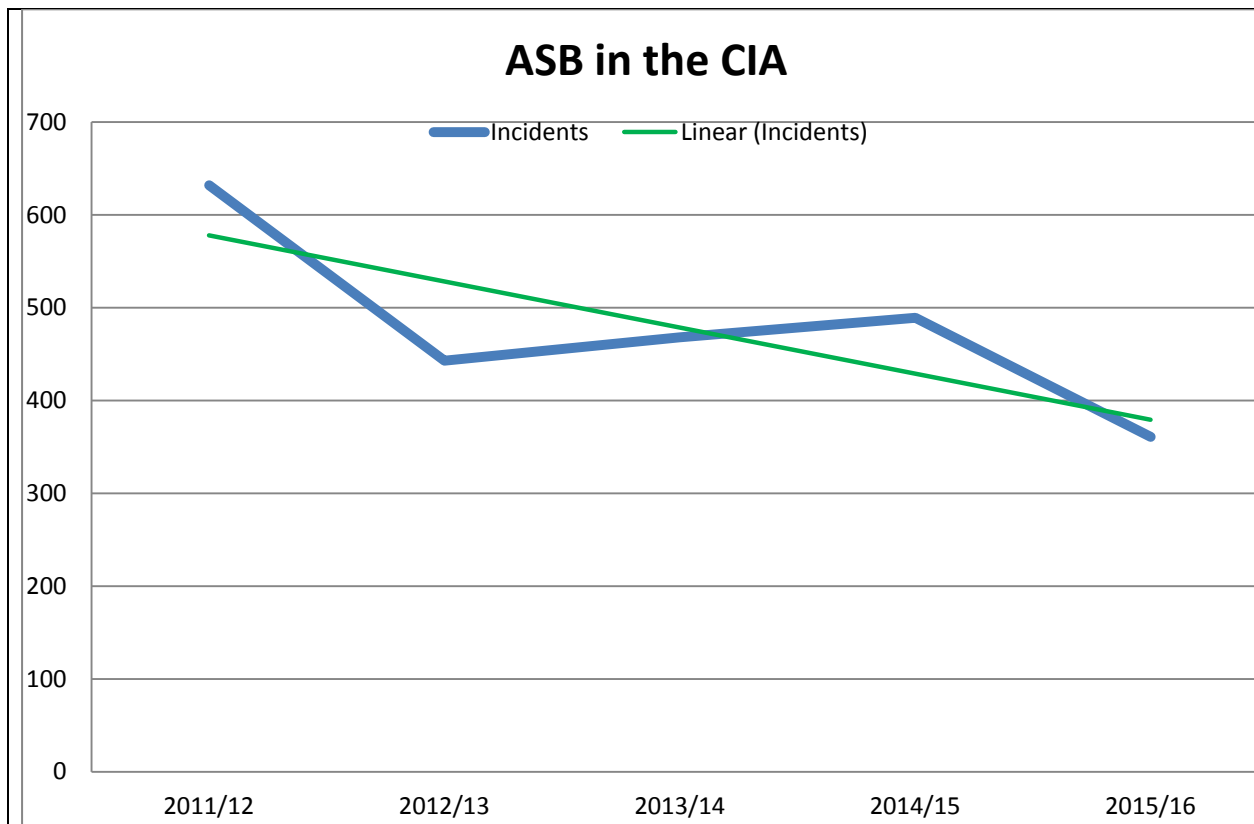


Crime and Anti-social Behaviour in the Cumulative Impact Area



Crime in the Cumulative Impact Area by Year

Violence in the Cumulative Impact Area by Year

Anti-social Behaviour in Cumulative Impact Area by Year

| Year | Incidents |
|---------|-----------|
| 2011/12 | 632 |
| 2012/13 | 443 |
| 2013/14 | 468 |
| 2014/15 | 489 |
| 2015/16 | 361 |

All Crime in Cumulative Impact Area by Year