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Alcohol licensing: cumulative impact assessments

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Summary

Under the *Licensing Act 2003*, responsibility for alcohol licensing in England and Wales rests with local authorities. This includes the issuing of [premises licences](#) and [club premises certificates](#). The Act has four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

Section 5 of the Act requires a licensing authority to publish a statement of its licensing policy at least every five years. A policy must take into account any cumulative impact assessment (CIA) an authority has published under section 5A of the Act. The aim of a CIA is to limit the growth of licensed premises where the promotion of the licensing objectives is being compromised.

CIAs did not have a statutory basis until 6 April 2018 when [section 141](#) of the *Policing and Crime Act 2017* came into force and amended the 2003 Act. Until that date, “cumulative impact” and cumulative impact *policies* (CIPs) were only described in Home Office guidance on the Licensing Act.

According to the Government, giving CIAs a statutory basis will “provide greater clarity and legal certainty about their use”.

Detailed information on statements of licensing policy and CIAs is available in chapter 14 of Home Office [guidance](#) (April 2018).

The Gov.UK website gives an overview of [alcohol licensing](#) in England and Wales.

1. The Licensing Act and cumulative impact

Section 141 of the *Policing and Crime Act 2017* came into force on 6 April 2018 and gave cumulative impact assessments (CIAs) a statutory basis in the *Licensing Act 2003*. Until that date, cumulative impact policies (CIPs) were only described in Home Office guidance on the 2003 Act. The guidance issued in March 2015 described cumulative impact as “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.”¹

[Section 5](#) and [section 5A](#) of the 2003 Act (as amended by the 2017 Act) now refer to CIAs.

Why was the 2003 Act amended?

The Home Office’s [Modern Crime Prevention Strategy](#) (March 2016) included a range of measures to prevent alcohol-related crime and disorder.² One of these was to put CIPs “on a statutory footing, to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as well as providing industry with greater clarity about how they can be used”.³

A November 2016 Home Office [Impact Assessment](#) said that the system at that time could, among other things, lead to disproportionate restrictions on new business:

(...) Under the present arrangements CIPs can be implemented on relatively weak grounds and remain in place for a number of years based on limited or outdated evidence. This can lead to disproportionate restrictions on new business and potentially an associated impact on communities where a CIP places restrictions on new leisure venues in town centres where this is not necessarily appropriate. Conversely, it could lead to a failure of CIPs to stand up to scrutiny and effectively prevent the escalation of problems caused by cumulative impact. This can mean that the public are left unsure about the level of protection offered by CIPs in their area. We are also aware that some LAs feel unclear about their role as a responsible authority when making decisions in CIP areas, in particular where the evidence base is weak.⁴

According to the Impact Assessment, licensing and enforcement partners welcomed the Government’s proposal. Most industry partners were “not opposed in principle” but “wanted to use the opportunity to ensure clarity on the process and function of CIPs and transparency over the evidence used to implement CIPs”.⁵

¹ Home Office, [Amended guidance issued under section 182 of the Licensing Act 2003](#), March 2015, para 13.20

² Home Office, [Modern Crime Prevention Strategy](#), March 2016, chapter 7

³ Ibid, p36

⁴ Home Office, [Impact Assessment on putting cumulative impact strategies on a statutory footing](#), November 2016, p8

⁵ Ibid, p7

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When introducing the changes through the *Policing and Crime Bill 2016/17*, the Government said that CIPs needed reform because not all licensing authorities were making effective or consistent use of them:

(...) CIPs help licensing authorities to limit the number or type of licence applications granted in areas where the number of licensed premises is causing problems. Such problems typically include crime and disorder or public nuisance caused by large numbers of drinkers being concentrated in one area. The CIP scheme is set out in the guidance issued under Section 182 of the Licensing Act 2003... However, they have no statutory basis and not all licensing authorities are making effective or consistent use of them. The licensed trade also has concerns about the transparency of the process for putting a CIP in place and the quality of evidence used as the basis for some. Putting CIPs on a statutory footing will provide greater clarity and legal certainty about their use...⁶

⁶ Baroness Chisholm of Owlpen at [HL Deb 9 November 2016 c1192](#)

2. Cumulative impact assessments

Chapter 14 of the Home Office's [guidance](#) (revised April 2018) on the Licensing Act covers statements of licensing policy and CIAs.⁷ The guidance gives some examples of how cumulative impact can impact on the licensing objectives:

14.21 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

14.22 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

14.23 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

A licensing authority must publish a statement of its licensing policy at least every five years. Before determining its policy, an authority must consult the persons listed in section 5(3) of the 2003 Act:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each local authority's Director of Public Health in England or Local Health Board in Wales;
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

In determining or revising its policy, an authority must consider any CIAs it has published by under the Act.

⁷ Home Office, [Amended guidance issued under section 182 of the Licensing Act 2003](#), April 2018, para 14.20

Publishing a CIA

A licensing authority can publish a CIA to help limit the number or types of licence applications granted where there is evidence showing that the number or density of premises in an area is having a cumulative impact and leading to problems which are undermining the licensing objectives.

Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a CIA. This includes consulting the persons listed in section 5(3) of the Act (see above).

Evidence of cumulative impact

There must be an evidential basis for the decision to publish a CIA. Information which licensing authorities can use includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- 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;
- evidence from local and parish councillors; and
- evidence obtained through local consultation.⁸

In addition to the above, a licensing authority may consider its own evidence of the impact of licensable activities within its area.

Effect of CIAs

According to the Home Office guidance, a CIA is a "strong statement of intent" about an authority's approach to licence applications.⁹ A CIA will explain that it is likely that granting further premises and/or club premises certificates in an area would be inconsistent with an authority's duty to promote the licensing objectives.¹⁰

However, the publication of a CIA does not change the way that licensing decisions are made: applications for new licences or variations to existing licences must still be considered on an individual basis. Applications that are unlikely to add to the cumulative impact on the licensing objectives should be granted.¹¹ The Home Office guidance explains:

14.28 While the evidence underpinning the publication of a CIA should generally be suitable as the basis for a decision to refuse

⁸ Home Office guidance, April 2018, para 14.29

⁹ Ibid, para 14.40

¹⁰ Ibid, para 14.39

¹¹ Ibid, para 14.40, 14.44; see also paras 14.45 and 14.46

an application or impose conditions, it does not change the fundamental way that decisions are made under the 2003 Act. Each decision in an area subject to a CIA therefore still needs to be made on a case-by-case basis and with a view to what is appropriate for the promotion of the licensing objectives. Importantly, the publication of a CIA would not remove a licensing authority's discretion to grant applications for new licences or applications to vary existing licences, where the authority considers this to be appropriate in the light of the individual circumstances of the case.

Reviewing CIAs

A licensing authority must review a CIA within three years. In doing so, it must consult with the persons listed in section 5(3) of the 2003 Act. If, after consultation, an authority no longer holds the opinion set out in the CIA, it must publish a statement making clear that any reference to the CIA in its licensing policy statement no longer applies. Reference to the CIA within the licensing policy statement should be removed at the earliest opportunity.¹²

If an authority's opinion remains as set out in a CIA, it must revise the CIA setting out why this is the case.¹³

¹² Ibid, para 14.35

¹³ Ibid, para 14.36

3. Evaluation

The London Borough of Islington introduced a CIP in 2013. A March 2017 [report](#) by the School for Public Health at the London School of Hygiene and Tropical Medicine found that the CIP had been “broadly effective”:

The results of the evaluation show that the Licencing Strategy overall, and the Cumulative Impact Policy specifically, have been broadly effective. The implementation of the strategy has met the objectives of reducing crime, anti-social behaviour and alcohol-related ambulance call outs, reducing the rate of successful applications for off-licences, reducing the average weekly trading times of alcohol licences granted.

Concurrently, three years after CIP introduction there have actually been increases in rates of alcohol licences granted overall. There also appears to be little or no impact on alcohol retail sales volume and sales revenues since 2013.

This evaluation appears to show that the London Borough of Islington’s Licencing Strategy and the CIP have reduced alcohol related harms without negatively impacting on the overall night-time economy in Islington and the ability of alcohol retailers to operate if they meet the conditions required.¹⁴

The School’s [webpage](#) gives links to other research on CIPs.

¹⁴ Karen Lock et al, [Evaluating the impact of a Cumulative Impact Zone Policy to reduce alcohol-related harms in Islington Local Authority](#)”, London School of Hygiene and Tropical Medicine, March 2017, p3

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