

Appendix 5: Review of Cumulative Impact Assessment 2019

1. Introduction

1.1 On 6 April 2018, s.141 of the Policing and Crime Act 2018 came into force which introduced s.5A of the Licensing Act 2003. This change related to “Cumulative Impact Assessments” (CIAs).

1.2 Prior to this date, policies relating to cumulative impact zones/cumulative impact areas had no statutory footing- they were creatures of guidance that many Authorities included within their Statement of Licensing Policy.

1.3 As Cumulative Impact Policies were not included in the Licensing Act 2003, no transitional provisions were made in respect of any cumulative impact policies that existed before 6 April 2018. It is recommended therefore that existing cumulative impact policies should be reviewed either within 3 years of the legislation on cumulative impact assessments being introduced, or, when the statement of licensing policy is next due for review, whichever is sooner. B&NES Council has chosen to carry out a review concurrently with the review of the Statement of Licensing Policy.

1.4 Licensing Authorities must have regard to any Cumulative Impact Assessments (CIAs) published by it under s.5A Licensing Act 2003 when determining or revising their Statement of Licensing Policy, and explain how this duty has been discharged.

2. Purpose of the CIA

2.1 The purpose of this Cumulative Impact Assessment is to provide clarity and transparency to those applying for, making representations in respect of, and determining, new and variation applications in relation to premises located within the identified area where cumulative impact exists.

3. Reasons for continuing to implement a CIA Policy

3.1 Concerns relating to higher levels of crime and disorder and public nuisance continue to be identified within the city centre where there is a large concentration of licensed premises compared to other areas within the Authority area and those concerns continue to be linked to licensed premises.

4. Evidence for continuing to implement a CIA Policy

4.1 Originally the Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) collated information which showed “a defined temporal and geographic area” within Bath City Centre “experienced a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area” and that Bath City Centre could be defined as experiencing a significant amount of alcohol related crime. In consideration of this evidence a Cumulative Impact Policy was adopted by Bath & North East Somerset Council and included in its Statement of Licensing Policy.

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4.2 This evidence was re-assessed each time the Statement of Licensing Policy was revised and was found sufficient to justify continuing with a Cumulative Impact Policy within the Statement of Licensing Policy.

4.3 With the introduction of Cumulative Impact Assessments the evidence has been reviewed again, and the evidence justifies the continuation of the cumulative impact policy, now to be referred to as BANES Cumulative Impact Assessment.

4.4 The evidential basis for concluding that the policy is still required is attached at Appendix a.

5. Description of the geographic area for which the cumulative impact assessment applies:

5.1 Recent evidence supports a reduction in the area in which high levels of crime, disorder and anti-social behaviour were previously reported, therefore a revised map detailing the reduced area is attached at Appendix A and views are sought on this as part of the public consultation.

6. Authorisations

6.1 The CIA will relate to all new applications for premises licences and club premises certificates AND any subsequent variations in respect of premises located in the identified area.

6.2 The CIA policy will not apply to Temporary Event Notices.

7. Type of Licensable Activity

7.1 Based on the evidence collated between 2014-2019, it is proposed that the cumulative impact assessment will not apply to premises where alcohol is sold for consumption off the premises.

8. Type of Premises

8.1 As there are no legal definitions in respect of premises such as “vertical drinking establishments” or “night clubs” or “tap rooms” for example this cumulative impact assessment applies to ALL premises where alcohol is sold for consumption on those premises.

9. Effect of this Cumulative Impact Assessment

9.1 The cumulative impact assessment creates a rebuttable presumption that all applications for new premises licences or club premises certificates or variations which relate to “on trade” premises situated within the identified area will be refused if relevant representations are received. In this context, ‘on trade’ means the sale of alcohol for consumption on the premises.

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9.2 In order to rebut this presumption, applicants must demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.

9.3 The Licensing Authority shall expect the applicant to address the issues surrounding cumulative impact within their operating schedule.

10. Representations

10.1 The presumption created by the Cumulative Impact Assessment does not relieve Responsible Authorities or any other persons from submitting a written representation about the likely effect of the grant of the application on the licensing objectives, to the Licensing Authority, within the statutory 28 day period. The Licensing Authority may not lawfully consider giving effect to its cumulative impact policy in the absence of relevant representations.

10.2 If no relevant representations are received, the application will be granted as applied for in accordance with s.18 (2) Licensing Act 2003.

11. Merits of each individual application

11.1 This CIA is not absolute.

11.2 The Licensing Authority will give proper consideration to the individual merits of each application, together with the relevant representations made. It is expected that the impact will differ depending on the style and characteristics of each individual premises.

11.3 Where it considers the application promotes the licensing objectives and would be unlikely to add to the cumulative impact already experienced, the Licensing Authority will grant the application.

11.4 Where the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of at least one of the licensing objectives, and that the imposition of conditions would be ineffective in preventing the problems involved.

12. Application for Review

12.1 This Cumulative Impact Assessment will not be used as a ground for calling for the review of an existing premises licence or club premises certificate. A review must relate to an individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

13. Review of this Cumulative Impact Assessment

13.1 Further to this revision, this CIA shall be reviewed every 3 years.

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14. Consultees

14.1 Prior to publishing this Cumulative Impact Assessment, the Licensing Authority consulted with all those specified within s.5(3) Licensing Act 2003.

15. Summary of CIA

15.1 A summary of this Cumulative Impact Assessment will be published in the B&NES Council's Statement of Licensing Policy.

16. Conclusion

16.1 This revised cumulative impact assessment policy will enable the Licensing Authority to discharge its duty to promote the licensing objectives in respect of an area where:

1. Concern relating to public nuisance and crime and disorder continues to be raised;
2. Up to date and robust evidence has been provided to support that public nuisance and crime and disorder is still occurring, and is caused by customers of premises licensed for the sale/supply of alcohol for consumption on those premises within an identified geographical area.