

CUMULATIVE IMPACT POLICIES



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PATERSON'S LICENSING ACTS 2018-19



CUMULATIVE IMPACT POLICIES

- As at 31 March 2018 - 107 LAs with a total of 222 CIAs in place.
- 65 (or 29%) of CIAs in London.
- Of 1,107 decisions on applications for new premises licences in CIAs 92% were granted and 8% refused (compared with 3% refused outside) (!?)

-Home Offices statistics

CUMULATIVE IMPACT ASSESSMENTS

- CIP's put on statutory footing: s.141 of Policing and Crime Act 2017
- Amends s 5 LA03 ("Statement of Licensing Policy")
- Inserts new s5A ("Cumulative Impact Assessments")
- S.182 Guidance at 14.20-14.48
- In force: 6 April 2018

CUMULATIVE IMPACT ASSESSMENTS

- CIP's in original s.182 Guidance (since 2005)
- Prior judicial approval of CIP's:
 - Pre-LA2003: Westminster CC v Chorion Plc [2002] EWHC 1104 (Scott Baker J, Admin Crt)
 - Post-LA2003: R (JD Wetherspoon Plc) v Guildford BC [2006] EWHC 815 (Beatson J, Admin Crt)

CUMULATIVE IMPACT ASSESSMENT (“CIA”)

- s.5A(1): A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the number of [premises licences or club premises certificates] in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty [to promote the licensing objectives] to grant any further [premises licences or club premises certificates] in respect of premises in that part or those parts.

CUMULATIVE IMPACT ASSESSMENTS

- A cumulative impact assessment must set out the **evidence** for the authority's opinion as set out in the assessment.
- In determining or revising its **statement of licensing policy**, a licensing authority must have **regard** to any cumulative impact assessments.

CUMULATIVE IMPACT ASSESSMENTS

- A CIA may relate to all relevant authorisations or only to relevant authorisations of a kind described in the assessment (e.g. only alcohol, or only LNR or only after certain time etc.)
- Before publishing a CIA the licensing authority must consult.

CUMULATIVE IMPACT ASSESSMENTS

- If LA publishes a CIA it must, following consultation, consider whether it remains of the opinion stated in the assessment - before end of 3 year period following publication or revision of CIA .
- If no longer of opinion CIA required – must publish statement to that effect and not consider CIA
- If CIA still required – must set out evidence to justify

CUMULATIVE IMPACT ASSESSMENTS

- Guidance 14.37: “Where a licensing policy statement as a whole is due for review, under the five year review period under section 5(4), and this occurs before the end of the three year CIA review period, licensing authorities may wish to use this as an opportunity to carry out a review of the evidence in support of the CIA. However, licensing authorities are free to carry out consultations and reviews of their CIAs (and/or licensing policy statements) at more regular intervals if they consider this to be appropriate.”

CUMULATIVE IMPACT ASSESSMENTS

- Guidance 14.38: “...any existing CIPs should be reviewed at the earliest practical opportunity to ensure they comply with the legislation. It is recommended that the review should take place within three years of the commencement of the legislation on CIAs or when the licensing policy statement is next due for review, whichever is sooner. This will ensure that any CIPs in place before the commencement of the provisions on CIAs adhere to the principles in the legislation (in particular concerning relevant evidence and consultation)”.

PROS

- Stems increase in nuisance, crime, asb etc.
- Supports responsible authority/residential concerns and objections
- Powerful filter for LA considering applications
- Reduces likelihood of successful appeal by operator

CONS

- Stagnation – preserves bad status quo
- Shuts out/deters new operators (esp. independents)
- Deters innovation among existing operators
- Impacts on market value of premises licences

BALANCING EXERCISE



CUMULATIVE IMPACT POLICY



“It cannot be the policy of the cumulative impact policy to bring the iron curtain clanging down... I accept that the committee and the police did their best but their application of the Policy was too rigid. They seemed to take the view that Man was made for the policy, when the Policy should be made for the man”

- Brewdog v Leeds City Council, DJ Anderson, Leeds MC, (6.9.2012)



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FURTHER INFORMATION:

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