

Cumulative Impact - Options for the Licensing Committee

1. This document has been prepared to set out the options available to Licensing Committee members ahead of carrying out a consultation deciding whether to publish a Cumulative Impact Assessment (CIA).

2. This follows the Licensing Committee held on 14 November 2023 where members were presented with the Cumulative Impact Research Report and heard from the consultants that prepared it. Findings from the research carried out in the following areas of the Borough were discussed:

- The area within the boundary formerly identified as the Shoreditch Special Policy Area.
- The area within the boundary formerly identified as the Dalston Special Policy Area.
- Broadway Market and London Fields area of interest.
- Hackney Central area of interest.
- Hackney Wick area of interest.

3. The areas of Broadway Market and London Fields, Hackney Central and Hackney Wick were found to be exhibiting varying levels of crime, London Ambulance Service (LAS) call outs, CCTV and noise incidents. However, the correlation between these negative impacts and licensed premises in those areas are not as pronounced.

4. As such, these areas are not considered to be suffering from negative cumulative impact to the level that any intervention is required. Therefore, only the Shoreditch and Dalston areas are being considered for the need to publish one or more cumulative impact assessments.

5. This document has been produced to assist the Licensing Committee to determine whether there are relevant problems and where those problems are occurring, which justify the publication of a CIA.

6. Before publishing a CIA, an authority must consult. This consultation must set out the following:

- (a) the reasons why the authority is considering publishing a cumulative impact assessment,
- (b) a general indication of the part or parts of the area which it is considering describing in the assessment.
- (c) whether the area considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind.

7. A licensing authority must review a CIA within three years to establish if there continues to be evidence to justify the retention of a CIA. Following a consultation, the authority must publish a statement on whether it remains, or no longer remains, of the opinion set out in the CIA.

Cumulative impact assessments – general principles

8. Section 5A of the Licensing Act 2003 (the 2003 Act) allows a licensing authority to publish a CIA if it considers that the number of premises licences and club premises certificates in a defined area is such that it is likely that granting further relevant authorisations would be inconsistent with its duty to promote the four licensing objectives.

9. A CIA is a discretionary means by which a licensing authority may control the number of new licensed premises within a defined geographical area and restrict the alteration of existing premises within the CIA area. It is not a measure that will address relevant issues from existing licensed premises. Those issues would need to be dealt with using other powers, such as an application to review an individual premises licence.

10. A CIA may relate to all relevant authorisations or only to relevant authorisations of a particular kind, as described in the assessment. As such, it could include all licensed premises or it may only include off-licences, or only the on-trade or specific descriptions of on-licensed premises (for example, nightclubs).

11. As noted in the guidance issued under Section 182 of the 2003 Act (the S182 Guidance), there must be an evidential basis to publish a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA.

12. The evidence underpinning the publication of a CIA should generally be suitable as the basis for a decision to refuse an application or impose conditions.

13. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA.

14. A CIA does not change the fundamental way that licensing decisions are made. As with all licensing applications under the 2003 Act, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

15. The CIA must stress that it does not relieve responsible authorities (or any other persons) of the need to make relevant representations where they consider it

appropriate to do so for the promotion of the licensing objectives. Anyone making a representation may base it on the evidence published in the CIA, or the fact that a CIA has been published. It remains incumbent on all responsible authorities and other persons to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

16. Notwithstanding receipt of any representations, it is possible for the licensing authority to grant an application relating to premises in a cumulative impact policy area where it considers it is appropriate and where the applicant can demonstrate that they would not be adding to the cumulative impact.

17. A licensing authority must review a CIA within three years to establish if there continues to be evidence to justify the retention of a CIA. Following a consultation, the authority must publish a statement on whether it remains, or no longer remains, of the opinion set out in the CIA.

Cumulative impact assessments - objectives

18. A Home Office Impact Assessment (November 2016) on giving CIAs a statutory basis said “it will place a greater onus on licensing authorities (LAs) to ensure that the evidence they use as the basis of their CIAs is robust. In particular, we would like to increase the transparency of the process that LAs go through when deciding to retain existing CIPs and ensure that when a decision is taken by an LA to implement or retain a CIA it is based on up to date evidence and is appropriate and proportionate for the promotion of the licensing objectives”.

Options for the Licensing Committee

A. Options for Shoreditch

| Area | Options |
|---|--|
| An area within, beyond or which is identical to the boundary formerly identified as the Shoreditch Special Policy Area | A CIA to apply to all relevant authorisations within a defined geographical area |
| | A CIA to apply only to relevant authorisations of a particular kind within a defined geographical area |
| | No CIA to apply |

B. Options for Dalston

| Area | Options |
|--|--|
| An area within, beyond or which is identical to the boundary formerly identified as the Dalston Special Policy Area | A CIA to apply to all relevant authorisations within a defined geographical area |
| | A CIA to apply only to relevant authorisations of a particular kind within a defined geographical area |
| | No CIA to apply |

19. For the purposes of a CIA in Hackney, “relevant authorisations” would mean any application for a new premises licence, club premises certificates or variations to existing premises licences or club premises certificates. “Relevant authorisations of a particular kind” would relate only to “Relevant authorisations” excluding genuine restaurants (i.e, those premises where alcohol is consumed as an ancillary to a table meal) seeking a new or varied premises licence with operating hours aligned with the Core Hours policy (LP3).