

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**19 OCTOBER 2016**

**NECHELLS**

**STATEMENT OF LICENSING POLICY – CUMULATIVE IMPACT AREAS  
POST CONSULTATION REPORT – DIGBETH AREA**

1. Summary

- 1.1 The City Council as the Licensing Authority is required to determine and publish its Statement of Licensing Policy at least every five years, and keep it under review and make such revisions to it at such times, as it considers appropriate.
- 1.2 In order to take effect any amended policy must be approved by City Council.
- 1.3 This is a requirement of the Licensing Act 2003 ('The Act').
- 1.4 The Statement of Licensing Policy includes areas of Special Policy known as Cumulative Impact Policy Areas or (CIPs).
- 1.5 The purpose of this report is to apprise Members of the results of consultation on the proposal to implement three further CIP areas.

2. Recommendations

- 2.1 That the Committee consider the responses to the consultation for the Digbeth Area proposed for CIP.
- 2.2 That Members consider whether there is sufficient evidence to implement CIP area as proposed.
- 2.3 That, should Members agree to the proposals in 2.2, Members consider if the CIP should relate to:
  - (i) On sales;
  - (ii) On and Off Sales, or
  - (iii) On and Off Sales and Late Night Refreshment
- 2.4 That any proposals agreed to at 2.2 and 2.3 be reflected in a revised Statement of Licensing Policy, to be presented to City Council at the next available opportunity.

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### 3. Background

- 3.1 The principle of 'Cumulative Impact' does not originate from the Licensing Act itself, but from the Statutory Guidance issued by the Home Office as required by s182 of the Act.
- 3.2 Cumulative Impact is addressed in paragraphs 13.2-13.41 of the Revised Guidance ( Issued March 2015). The full guidance document can be found at: <http://bit.ly/s182Mar2015>
- 3.3 Paragraph 13.29 of the s182 Guidance sets out the steps to be followed when considering a special policy area as follows:
- *Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm.*
  - *Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.*
  - *If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.*
  - *Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).*
  - *Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.*
- 3.4 The review of the Statement of Licensing Policy in April 2015 resulted in the CIP areas of Broad Street and Hurst St/Arcadian being extended in scope to include late night refreshment and off-sales as well as the existing on-sales.
- 3.5 Following the consultation carried out as part of the review of the Statement of Licensing Policy four areas of the City were suggested as being appropriate to be considered as Cumulative Impact Policy areas, being Digbeth, Erdington, the 'Balti Triangle' and the area around John Bright Street.
- 3.6 In order to satisfy the requirements specified by the s182 Guidance (as detailed in paragraph 3.1 above) officers made preliminary enquiries via email with Local Policing Units, Ward Councillors and, in the case of Digbeth, the Chair of the Resident's association.
- 3.7 The matters concerning John Bright Street were discussed at the time of the Licensing and Public Protection Committee in April 2015, whereupon it was agreed by the Committee that a CIP did appear to be merited, although the matter had not been subject to public consultation. For this reason, preliminary enquiries were not considered necessary.
- 3.8 Following these preliminary enquiries it was agreed to proceed with more extensive consultation in relation to the areas of John Bright Street, Digbeth and Erdington.

#### 4. Consultation

- 4.1 A summary of responses to the consultation for the Digbeth Area is attached at Appendix 1(a) to this report, with comments attached at Appendix 1(b)-(c)
- 4.2 Consultation questionnaires were circulated to the relevant Ward Councillors, Responsible Authorities and holders of existing premises licences in the proposed areas. The consultations were also included on BeHeard.
- 4.3 Owing to the low number of responses, the consultation was extended by a further 2 weeks with email sent reminders where possible.

#### 5. Results of Consultation

- 5.1 All of the responses received (6) were in favour of the proposed CIP.
- 5.2 Of the responses which expressed a preference, 3 were in favour of On, Off and Late Night Refreshment Sales being included one supported On and Off sales only, with two responses not indicating a preference.
- 5.3 The Police, Environmental Health and Public Health are all supportive of the proposed CIP.

#### 6. Matters for Consideration

- 6.1 There were disappointingly low response rates to these consultations, despite the consultation period being extended.
- 6.2 Members are reminded of the considerations detailed in paragraph 3.3 above when considering whether there is sufficient evidence provided to justify the implementation of these CIP areas.
- 6.3 On 23<sup>rd</sup> September 2016, the Home Office announced an amendment to the Policing and Crime Bill currently going through parliament concerning, among other things, Cumulative Impact. An extract of this announcement is at Appendix 2.
- 6.4 At the time of writing this report, the detail of the clauses was not available; however, it is useful to note that there is nothing within the proposals to contradict the manner in which your Committee has administered matters of Cumulative Impact.
- 6.5 A further report will be brought to your Committee outlining all of the implications of the Policing and Crime Bill following Royal Assent.

7. Implications for Resources

- 7.1 The cost of devising and maintaining a Statement of Licensing Policy, including revisions and amendments, is included within the existing Licence fee structure.

8. Implications for Policy Priorities

- 8.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services, as well as laying the foundations for a prosperous city, built on an inclusive economy; Involving local people and communities in the future of their local area and their public services – a city with local services for local people.

9. Public Sector Equality Duty

- 9.1 Section 5 of the Licensing Act 2003 requires the Licensing Authority to publish a Statement of Licensing Policy. Section 5(3) of the Act specifies those who must be consulted on the Policy and subsequent Policy reviews.
- 9.2 There are no likely adverse consequences on any person who falls within the definition of a protected characteristic.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil

**APPENDIX 1(a)****DIGBETH CONSULTATION RESPONSES (SUMMARY)**

	Do you believe a CIP is necessary for the proposed area?	If so, what are your reasons for this?	Should the CIP extend beyond on sales to include off sales/late night refreshment?	Please provide any evidence to support your answer
1	Yes	None Given	On and Off Sales Only	None Provided
2	Yes	None Given	On and Off Sales and Late Night Refreshment	None Provided
3	Yes	See Below	Not stated	See Below
4	Yes	See Below	On and Off Sales and Late Night Refreshment	See Below
5	Yes	See Below	On and Off Sales and Late Night Refreshment	See Below
6	Yes	See Below	Not stated	See Below

## **DIGBETH CONSULTATION RESPONSES**

### **Response 3: Evidence**

Southside supports the inclusion of cumulative impact areas for Digbeth and John Bright Street. Since Southside was granted its cumulative impact area, we have seen businesses setting up outside the usual NTE areas which now have these policies, causing issues with ASB and night time policing. We urge you to implement these areas for the comfort of the local residents and to ensure the efficacy of city centre policing in the night time economy.

### **Response 4: Evidence (West Midlands Police)**

Yes we believe a Cumulative Impact Policy is necessary. In recent years we have seen a substantial growth in Shisha lounges and night club venues across the Digbeth and Highate areas. This has generated increased incidents of inconsiderate parking / noise complaints / ASB / drug issues, violent crime / Child sex exploitation and demand on limited police resources.

Yes we believe it should include all applications including off and on sales, and late night refreshment.

This would be important for our ever growing student community which at present stands at approximately 12000, with a high transient population through the area. These areas would be prime location for future late night refreshment and in particular off sales applications / sites. With the continuing growth in Shisha Lounges numbers, consideration needs to be given to venues offering extra services such as entertainment and refreshment, to gain an advantage over other such establishments.

Evidence:

Big Break Snooker Club closed by West Midlands Police under closure order following concerns of ASB and child sex exploitation. Evidence of drugs / alcohol / condoms found at premises. Operating with late night refreshment licence.

Drug related death at Rainbow Warehouse New Year's day 2016.

Shooting outside Arabian nights Shisha Lounge 11<sup>th</sup> July 2016. Also subject to intelligence reports of vulnerable underage females being taken there.

Two Shisha lounges burnt down following arson attacks.

Numerous and continual parking and noise complaints across a number of venues operating with licences.

A more detailed analytic product can be provided if required.

<b>Response 5: Evidence (Environmental Health)</b>
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<p>There has been a historic proliferation of late night entertainment venues within the area e.g. clubs, bars, etc., and Environmental Health have had to respond to complaints of noise from on and off premises arising from the same. The area around / between High Street and the railway line saw the greatest concentration and when investigating complaints it was often difficult to break apart the impact from each club – individually a club may not have been a nuisance (public or statutory) but combined they were clearly a problem. Unfortunately we have been unable to assist residents in these circumstances. Such a policy would ensure that no future venue contributes to the environment of the area in this way and upsets the balance that appears to have been established.</p>
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<p>There has also been an increase in residential into the area and whilst large parts of the area remain subject to a lack of clear investment, it will only be a matter of time before the growth from other city areas extends into Digbeth / Deritend in full and if this follows the wider planning policy for the city centre, which encourages a mixed use of areas with a preferred co-existence of residential and other uses, including the night time economy, then having a robust Licensing policy in place to support this would be advantageous to existing uses e.g. it would provide a measure of safeguarding against excessive competition, and be beneficial to existing and new residents, by providing an environment that is conducive to the mixed uses.</p>
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<p>It is the view of Environmental Health that the CIP should extend to “On and Off sales and Late Night Refreshment”. Given the points raised in answer to Q1, it would be a policy gap to afford controls to on-sales only and not provide similar controls to venues which have a clear linkage to those providing on-sales e.g. as the patrons will seek refreshment (food or drink) before or after the entertainment and this means more people in the area into the early hours and in a position to cause a breach of the licensing objectives. By restricting the number of such premises or affording better controls, the risk of such a breach is reduced.</p>
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<b>Response 6: Evidence ( Public Health)</b>
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<b>See Appendix 1(c)</b>
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## Public Health – Consultation Response

<b>Question 1</b>	Do you believe a Cumulative Impact Policy is necessary for the area shown in the map?
<b>Public Health response: Prepared by Kyle Stott – Birmingham Public Health</b>	
<p><b>Yes</b>, Birmingham Public Health believes that a Cumulative Impact Policy is necessary for the area shown in the map on page 3 of the supporting document in the link above.</p> <p>Our reasons for this answer are as follows, based upon the Home Office CIP guidance of: <i>“steps that should be followed in considering whether to adopt a CIP; these include: • identifying concern and considering whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm; Evidential basis: there must be an evidential basis for the decision to introduce a CIP, including: local crime and disorder statistics • statistics on local anti-social behaviour offences • health-related statistics such as alcohol-related emergency attendances and hospital admissions”</i><sup>1</sup></p> <ul style="list-style-type: none"> <li>• 94.8% of the postcodes examined within the proposed CIP fall into LSOA that flag as red for tier 1 data within the Public Health alcohol tool. This score has been generated based on information regarding alcohol related violence and domestic violence, existing on-licences and off-licences, alcohol related fires, alcohol related safeguarding, and underage sales. These elements have been viewed as having the largest measurable impact on whether the licence should be granted and actual numbers were made available on a low level geography.</li> <li>• 72.2% of postcodes in the proposed CIP fall within LSOAs that are flagged as red for Police reported domestic violence.</li> <li>• 99.7% of postcodes (all but one Post Code) in the proposed CIP fall within MSOAs with a statistically higher than average concentration of premises that have a licence to serve alcohol for consumption on the premises, this is 36.4% for licences to serve alcohol off the premises.</li> <li>• Tackling alcohol and substance misuse has been adopted as a public health priority by Ladywood district.</li> <li>• 85.3% of the postcodes in the proposed CIP fall within MSOAs that are flagged as red for alcohol related hospital admissions.</li> <li>• 85.6% of postcodes in the proposed CIP fall within MSOAs where referrals for commissioned services for alcohol and substance misuse are significantly statistically higher than average.</li> <li>• Local licensing policies appear to be associated with a reduction in alcohol-related hospital admissions in areas with more intense licensing policies<sup>4</sup>.</li> </ul> <p>Based upon the results above at tier 1 level, it is unlikely that Public Health as a Responsible Authority would advise that an alcohol licence should be granted to an applicant. We are acutely aware that the alcohol and night-time economy in Birmingham contributes to local employment opportunities and local economic income, both having a positive impact upon public health outcomes. We believe that as opposed to being a policy to reduce economic opportunities could assist in the allocation of licenses with conditions, and the exercising of special licensing powers to mitigate and ameliorate the impact of alcohol related harm against the 4 licensing objectives. This implementation of a CIP in this area could also contribute to the reduction of harmful and hazardous drinking and increase the wellbeing of citizens of Birmingham, and an increase in the safety of citizens and visitors to the city</p>	

<b>Question 2</b>	Should the CIP extend beyond on-sales to include off sales / late night refreshment? On sales only? On and Off Sales only? On and Off sales and Late Night Refreshment? A different combination? (please state)
<b>Public Health response</b>	
<p>Public Health would like to see the CIP extend beyond on-sales to include off sales and late night refreshment. The reasons for this are as follows:</p> <p>Super-strength alcohol is often obtained via off-sales, and is strongly linked to pre-loading, (harmful and hazardous drinking), all forms of alcoholism, including street alcoholism/drinking. To put this into perspective, a 70cl bottle of spirits containing 28 units of alcohol typically costs between £ 10-13 while a 3 litre bottle of white cider containing 22.5 units of alcohol can be bought for £4 or £5.00. In short, very dangerous (and sometimes fatal) amounts of alcohol can be consumed for no more than £ 5.00 and is widely available in newsagents and supermarkets.</p> <p>For this reason, many people have advocated a minimum unit pricing of 50 pence per unit as based on this pricing, a 3 litre bottle of white cider would cost about £ 11.25 and not £4. Restricting the availability of such alcohol in outlets in Birmingham is an additional factor to consider when addressing the problem of harmful and hazardous drinking in the negative consequences that often follow, as highlighted in the statistics available at LSOA and MSOA level relating to alcohol in the proposed CIP for Digbeth.</p> <p>Harm minimisation practices have shown to have a positive effect on many drinkers. Any policy aimed at the damage done by white cider for example, would also need to target other super-strength products including lager<sup>2</sup>. Public policies affecting the price of alcoholic beverages have significant effects on alcohol-related disease and injury rates<sup>3</sup>.</p> <p>A CIP and the special powers that this comes with can be used to halt the growth (and in some circumstances) reduce the cumulative impact of off-sales premises, and also be used to consider specific conditions should a licence be granted, for example restrictions on the sale of super-strength alcohol, and times when alcohol can be purchased.</p> <p>By combining the powers available to the many local government sectors involved in alcohol control, alcohol-related health and social harms can be tackled through existing local mechanisms<sup>5</sup>.</p> <p>Local areas in England with more intense alcohol licensing policies had a stronger decline in rates of violent crimes, sexual crimes and public order offences in the period up to 2013 of the order of 4–6% greater compared with areas where these policies were not in place<sup>6</sup>.</p> <p>During the period 2009–2015 greater reductions in alcohol-related admissions were observed in areas with more intense alcohol licensing policies, suggesting these policies really can help curb alcohol-related harm<sup>7</sup>.</p>	

## Supporting Information and References

### References:

**Document responding to:** [https://www.birminghambeheard.org.uk/place/licensing-act-2003-statement-of-licensing-policy-c/supporting\\_documents/Digbeth%20CIP.pdf](https://www.birminghambeheard.org.uk/place/licensing-act-2003-statement-of-licensing-policy-c/supporting_documents/Digbeth%20CIP.pdf)

1. BRIEFING PAPER Number 07269, (23 July 2015) *Alcohol: cumulative impact policies*; House of Commons Library
2. *White Cider and street drinkers Recommendations to reduce harm* (2011); Alcohol Concern.
3. Alexander C. Wagenaar, Amy L. Tobler, and Kelli A. Komro. *Effects of Alcohol Tax and Price Policies on Morbidity and Mortality: A Systematic Review*. American Journal of Public Health: November 2010, Vol. 100, No. 11, pp. 2270-2278
4. J Epidemiol Community Health 2016;**70**:231-237 doi:10.1136/jech-2015-206040; *Alcohol, Measurable effects of local alcohol licensing policies on population health in England*
5. J Public Health (2013) *Responsibility without legal authority? Tackling alcohol-related health harms through licensing and planning policy in local government*

6. J Epidemiol Community Health doi:10.1136/jech-2016-207753 (2016) *Research report Testing the impact of local alcohol licencing policies on reported crime rates in England*
7. *Measurable effects of local alcohol licensing policies on population health in England.* de Vocht F., Heron J., Angus C. et al. Journal of Epidemiology and Community Health: 2016, 70(3), p. 231–237

**Toolkit:** Variable geographical levels of information have been used where available, in each case this is based on the post code of the application falling within this larger geographical area. Two terms are less commonly used outside of certain specialist areas and are detailed below:

LSOA (Lower Super Output Area) is a geographical Census area with an approx. population of 1,500.

MSOA (Medium Super Output Area) is a geographical Census area with a approx. population of 8,000.

Scores have been calculated by comparing the geographical area in question to the average at a higher level (Birmingham in most instances). 10% margin of error has been applied to both the smaller and larger areas and it is only where these are still relatively different that a RED (more prevalence or risk in area compared to average) or GREEN (less prevalence or risk in area compared to average) score has been calculated. Where these margins for error overlap in any way this has been calculated as AMBER (indifference).

**EXTRACT FROM EMAIL RECEIVED 23<sup>RD</sup> SEPTEMBER 2016 FROM THE HOME OFFICE**

Thank you for your help with developing the legislative proposals on cumulative impact and the late night levy over the course of the last year. Many of you attended our workshops and your feedback was very helpful.

I'm writing to let you know that the clauses amending the Late night levy and placing cumulative impact policies on a statutory footing have been tabled in Parliament today, for introduction to the Policing and Crime Bill at Lords Committee. The clauses will be found here shortly (if not there already): <http://services.parliament.uk/bills/2016-17/policingandcrime/documents.html>

The first Lords Committee debate for the bill took place last week and the alcohol clauses are likely to be debated in mid-late October (date yet to be decided).

[...]

**Cumulative impact**

The aim of putting Cumulative Impact Policies on a statutory footing is to add legal certainty and transparency for applicants, licensing authorities and other responsible authorities on how CIPs are developed and operate. The draft legislation does not require all licensing authorities to consider cumulative impact.

The clause sets out what steps a licensing authority will be required to take before publishing a cumulative impact assessment. The cumulative impact assessment may be published where the licensing authority considers that the number of premises in a particular area is such that granting any further authorisations would be inconsistent with the licensing authority's duty to promote the licensing objectives, and the licensing authority must set out the evidence for their opinion. Guidance will explain that this is evidence of an emerging or existing problem and will set out the kinds of evidence which licensing authorities may use.

The licensing authority must provide the following information for the consultation: the reasons why it is considering a cumulative impact assessment; the areas which the assessment relates to; and whether the assessment will relate to all premises licences and club premises certificates or only those of a particular kind.

There is a new requirement to review and carry out a consultation on the cumulative impact assessment at least every 3 years, and publish a statement about whether the licensing authority remains of the opinion set out in the assessment. This will also ensure that licensing authorities use robust and up to date evidence to support the implementation and retention of CIPs in their area and as the basis for making decisions. Guidance will explain that licensing authorities are expected to publish the most up to date and relevant evidence on which the cumulative impact assessment is based.

Guidance will make it clear that the cumulative impact assessment may be used when considering the variation of existing licences as well as the grant of new licences in the area. As is currently the case with CIPs, a cumulative impact assessment does not create an automatic refusal of a new licence or variation of an existing licence, and licensing authorities, other responsible authorities or other persons will need to make representations in the usual way.

The s.182 guidance will be updated and published when the legislation comes into force.

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