

# LICENSING ACT COMMITTEE

## Licensing Act 2003 – Cumulative Impact Policy

31<sup>st</sup> January 2013

### Report of Licensing Manager

#### PURPOSE OF REPORT

This report has been produced at the request of Councillor Aitchison to explain to Members the steps that would need to be taken in order to include a special policy relating to cumulative impact into the Licensing Act 2003 Statement of Licensing Policy

**This report is public**

#### RECOMMENDATIONS

**That the report be noted.**

##### 1.0 Introduction

- 1.1 Cumulative impact is not mentioned specifically in the Licensing Act 2003. Cumulative impact refers to the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Guidance issued under the Licensing Act 2003 states that the cumulative impact of licensing premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.2 It is important that applicants, responsible authorities and other persons should know through the Statement of Licensing Policy, whether the licensing authority already considers that a particular concentration of licensed premises in a particular part of its area is considered to be already causing a cumulative impact on one or more of the licensing objectives.
- 1.3 The steps to be followed in considering whether to adopt a special policy within the Statement of Licensing Policy are summarised below:
  - 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 could involve mapping where the problems occur and identifying specific streets or localities where such problems arise.
  - Consult with 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.
- 1.4 There must be an evidential basis for the decision to include a special policy within the Statement of Licensing Policy. Local Community Safety Partnerships and responsible authorities such as the police and the local authority exercising environmental health functions, may provide relevant information which would inform licensing authorities when establishing the evidence base for introducing a special policy into the Statement of Licensing Policy.
- 1.5 Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives include:

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 attendance 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' associations;
- Residents' questionnaires;
- Evidence from local councillors; and
- Evidence obtained through local consultation.

## **2.0 Effect of Special Policies**

- 2.1 The effect of creating a special policy of this kind in the licensing policy statement is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 2.2 A special policy must stress that this presumption does not relieve responsible authorities (or any other persons) of the need to make relevant representations, referring to information which had been before the licensing authority when it developed its Statement of Licensing Policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 2.3 The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 2.4 Special policies may apply to the impact of a concentration of licensed premises selling alcohol for consumption on or off the premises. When establishing its evidence base for introducing a special policy, licensing authorities should be considering the contribution to cumulative impact made by different types of premises

within its area, in order to determine the appropriateness of including different types of licensed premises within the special policy.

- 2.5 A special policy should never be absolute. Statement of licensing policies should always allow for circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted.
- 2.6 Special policies can never be used for revoking an existing licence or certificate when representations are received about problems with those premises. The cumulative impact on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for a grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature cumulative impact relates to the effect of a concentration of premises.
- 2.7 Every application must be considered individually. Therefore, special policies must not restrict such consideration by imposing quotas based on either the number of premises or the capacity of those premises.

### **3.0 Summary**

- 3.1 There must be an evidential basis for considering the introduction of a special policy into the Statement of Licensing Policy. Any special policy must relate to specific areas where a concentration of licensed premises has had a cumulative impact on one or more of the licensing objectives. There is currently no evidence of problems that would justify a special policy in the Lancaster District.
- 3.2 The effect of adopting a special policy is to create a rebuttable presumption those applications of a certain type within the defined area will be refused. The policy may not, however, act as an absolute prohibition on the granting of new licences. In particular it should be noted that the absence of a special policy does not prevent responsible authorities or interested parties from raising concerns about the cumulative impact in relation to specific applications, and likewise it does not prevent the licensing authority from rejecting or modifying an application if representations have been received.
- 3.3 If a special policy relating to cumulative impact is included in the Statement of Licensing Policy, the licensing authority can not apply any special policy unless a representation is received for a responsible authority or other person
- 3.4 Any consideration to include a special policy in the Statement of Licensing Policy would have to be consulted upon.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>
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None.

<b>FINANCIAL IMPLICATIONS</b>
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None

**LEGAL IMPLICATIONS**

A special policy may be open to Judicial Review.

Any person aggrieved by the refusal of the grant of a licence or certificate would have the right to appeal to the Magistrates' Court.

**BACKGROUND PAPERS**

None

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