

## **LICENSING AND SAFETY COMMITTEE**

**8 APRIL 2021**

### **CUMULATIVE IMPACT ASSESSMENT**

Report from: Perry Holmes, Chief Legal Officer

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#### Summary

To present the Cumulative Impact Assessment (CIA) to Members and ask for consideration as to whether the evidence gathered and prepared in this report is sufficient and appropriate to justify the continued existence of the current Cumulative Impact Policy (CIP). The fresh evidence for the Cumulative Impact Assessment has been collated following consultation with consultees in accordance with S5(s) of Licensing Act 2003.

#### 1. Budget and policy framework

1.1 The Licensing and Safety Committee's terms of reference state that the committee will make recommendations to Council for approval of the Statement of Licensing Policy. The Cumulative Impact Assessment forms part of the Council's Statement of Licensing Policy.

#### 2. Background

2.1 A Cumulative Impact Assessment must set out the evidence for the authority's opinion. Provisions under s5(A) cover the consultation requirements and additional requirements including the need to give reasons for the CIA, indicate the areas to which the CIA will apply and state which authorisations the CIA relate to. "Relevant authorisations" means:

- Premises licence
- Club premises certificate

A CIA may relate to all relevant authorisations or only to relevant authorisation of a kind described in the assessment.

2.2 The Cumulative Impact Assessment was approved by Full Council on 26 April 2018 as part of the Statement of Licensing Policy. This assessment was the evidential basis for the justification of the Cumulative Impact Policy that came

into force on 1 May 2018. Whilst the Cumulative Impact Policy itself is valid for 5 years in line with the Statement of Licensing Policy the Cumulative Impact Assessment is not. It must be reviewed every three years and it is due to expire on 30 April 2021.

- 2.3 In 2018 the Cumulative Impact Assessment indicated unacceptably high rates of alcohol related harms including anti-social behaviour, assaults, domestic violence, criminal damage, public order and sexual offences, arrests, alcohol related hospital admissions and ambulance callouts in specific areas. The evidence in support of these harms was provided by Public Health and the Community Safety Unit.
- 2.4 On the strength of this assessment, stakeholders have been able to balance the needs of local businesses and the local community, whilst trying to protect individuals from the alcohol related harms identified in these areas through the Cumulative Impact Policy.
- 2.5 The existence of the policy has proved to be an effective tool for achieving this balance by introducing consistency in the decision-making process, raising awareness of the alcohol related harms in these areas, engaging with applicants and in promoting the licensing objectives.

### 3. Licensing Objectives

3.1 In reviewing the CIA the duty on the licensing authority is to determine whether it remains of the view that the number of premises licences and/or club premises certificates in one or more parts of the area are such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives, or not.

3.2 The Licensing Objectives are:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Protection of Children from Harm
- Public Safety

### 4. Post Consultation

4.1 Licensing have consulted with the statutory Consultees as mentioned in 5(3) of the Licensing Act:

- Kent Police
- Kent Fire and Rescue Service
- Medway Council's Director of Public Health
- Persons/Bodies representative of local premises licence holders
- Persons/Bodies representative of local club premises certificate holders
- Persons/Bodies representative of local personal licence holders and

- Persons/Bodies representative of businesses and residents in the area

Please note that Licensing are not consultees in this process.

- 4.2 Submissions in relation to the consultation process have been received from Kent Police and Public Health in respect of Gillingham, Chatham, Luton and Rochester. An endorsement of the current status has also been received from a resident.
- 4.3 Please find evidence from Kent Police, which is attached as Appendix A.
- 4.4 Evidence from the Director of Public Health is attached at Appendix B.
- 4.5 Submission from a local resident is attached as Appendix C.
- 4.6 Members are requested to consider this evidence and determine whether it supports the continuation of a Cumulative Impact Policy for the areas identified.

## 5. Reviewing the Cumulative Impact Assessment

- 5.1 The Licensing Act 2003 Section 182 gives the following:

“Subsection 14:35 - After publishing a CIA the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3). If having consulted with the statutory list of persons the licensing authority decides that it is no longer of the opinion set out in the CIA, it must publish a statement to that effect. The statement must make clear that any reference to the CIA in its licensing policy statement no longer applies. The licensing authority should remove any reference to the CIA within its licensing policy statement at the earliest opportunity.

Subsection 14:36 - If having consulted the licensing authority decides that it remains of the opinion set out in the assessment, it must revise the CIA to include a statement to that effect and set out the evidence as to why it remains of that opinion. It will be important for any evidence included in the revised CIA to be robust and relevant to the current problems described. This is likely to involve the collation of fresh or updated evidence of the kind described in the above section on evidence of cumulative impact. The licensing authority must also at this stage publish any other material change to the assessment. For example, if the types of premises or area described in the assessment have changed due to a shift in the nature of the problems being experienced or where there is evidence of the emergence of a new type of problem.”

- 5.2 The COVID-19 pandemic has irrevocably changed every town, city and high street across the UK and as a result, some authorities have chosen to review their CIA and others have chosen to remove their CIAs entirely; generally, on

the basis of no longer having sufficient evidence to support the continuation of their Cumulative Impact Policies or in order to support economic recovery

5.3 Evidential requirements were placed on a statutory footing in 2017. COVID-19 has forced an immediate change to premises' operation style, and the licensing landscape has dramatically changed. In Medway, due to the uncertain short, medium and long-term effects of COVID-19 on the area and the amount of data to describe its impact at the time of this analysis, the patterns observed in this research may not be representative of the past and future years of the underlying alcohol related harms experienced.

5.4 The options available to the Committee are as follows:

(i) Find that it is no longer of the opinion that the evidence in the assessment shows it is inconsistent with the licensing objectives to grant applications for premises licenses in specified categories in the areas identified. Following such a finding a statement to this effect must be published and all references to the CIA in the Council's Statement of Licensing Policy must be removed.

(ii) Find that it is still of the opinion that the evidence in the assessment shows that it would be inconsistent with the licensing objectives to grant applications for premises licenses in the specified categories in the area/s identified. Following such a finding the CIA must be revised to include a statement to that effect and set out the evidence as to why it remains of that opinion.

5.5 The Committee will need to make a recommendation to Full Council to amend the Statement of Licensing Policy should it be of the opinion that all references to the CIA in the Council's Statement of Licensing Policy should be removed.

## 6 Financial implications

6.1 The cost of consultation has been met from within existing budgets.

6.2 The Cumulative Impact Assessment consultation process is not envisaged to place any new financial pressures on the Council

## 7 Legal implications

7.1 There is no legal requirement for a Cumulative Impact Assessment and associated Cumulative Impact Policy. However, Medway has previously agreed to do so.

## 8 Recommendations

8.1 The Committee is asked to consider the evidence contained within the appendices to this report and determine:

- 8.1.1 if it is no longer of the opinion that the evidence in the assessment shows it is inconsistent with the licensing objectives to grant applications for premises licenses in specified categories authorisations of premises in the areas identified. Following such a finding, subject to the agreement of Full Council, a statement to this effect must be published and all references to the CIA in the Council's Statement of Licensing Policy must be removed; or
- 8.1.2 if it is still of the opinion that the evidence in the assessment shows that it would be inconsistent with the licensing objectives to grant applications for premises licenses in the specified categories in the areas identified. Following such a finding the CIA must be revised to include a statement to that effect and set out the evidence as to why it remains of that opinion.
- 8.2 Should the Committee be of the opinion that all references to the CIA in the Council's Statement of Licensing Policy should be removed, in line with 8.1.1 above, it must make a recommendation to Full Council to amend the Statement of Licensing Policy to remove all such references.

### Lead officer contact

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### Appendices

Appendix A – Evidence from Kent Police

Appendix B – Evidence from the Director of Public Health

Appendix C – Submission from a local resident

### Background papers

None