

Title: Putting Cumulative Impact Policies on a Statutory Footing IA No: HO 0253 RPC Reference No: Lead department or agency: Home Office Other departments or agencies:	Impact Assessment (IA)			
	Date: 01/11/2016			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
	Contact for enquiries: Robert Turner robert.turner2@homeoffice.gsi.gov.uk			

Summary: Intervention and Options

RPC Opinion: EANDCB Validated

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£0.2m	£0m	£0m	Not in scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Cumulative Impact Policies (CIPs) allow local authorities (LAs) to limit the number or type of licence applications (e.g. bars or off-licences) granted in areas where they can demonstrate that the number or density of premises in that area is adversely impacting on the statutory licensing objectives (the prevention of crime and disorder, public safety, prevention of public nuisance; the protection of children from harm) under the Licensing Act 2003 ("the 2003 Act"). There are currently over 200 CIPs in place but they have no statutory basis. Not all LAs are making effective or consistent use of CIPs and the licensed trade has concerns about the transparency of the process and quality of evidence used to restrict new businesses.

What are the policy objectives and the intended effects?

The Government is seeking to put CIPs on a statutory footing to add legal certainty and transparency for applicants, LAs and other responsible authorities (RAs) including police, fire authorities, environmental health, health and safety authorities, local planning authorities and bodies responsible for protecting children from harm on how CIPs should be developed and operate. We will also aim to ensure that LAs 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. We would like to retain the flexibility of CIPs and LAs' discretion to grant or refuse applications in CIP areas.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do nothing. The principles of CIPs will remain in guidance only for use by LAs if they choose as part of their licensing policy statement where there is evidence of cumulative impact.
Option 2: Place CIPs on a statutory footing; retain flexibility and discretion LAs have to decide on applications in CIP areas. Enshrine existing principles of CIPs set out in statutory guidance, in legislation, including steps to be taken by a LA when considering to adopt a CIP within its licensing policy statement; the ability for LAs to grant applications in CIP areas in light of individual circumstances; and the need for RAs (or any other persons) to make a relevant representation before the LA may consider giving effect to its CIP. Increase transparency and ensure that the retention of a CIP is proportionate and appropriate by introducing a new requirement on LAs to review the evidence supporting a CIP and consult the bodies listed under section 5(3) at least every three years and to publish a statement on the outcome of their review.

Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Sara Newt

Date:

7.11.2016

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	

Description and scale of key monetised costs by 'main affected groups'

N/A

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

N/A

Key assumptions/sensitivities/risks

N/A

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	

Summary: Analysis & Evidence

Policy Option 2

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.5	High: 5.0	Best Estimate: -0.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0.02	0.1
High	0	0.7	5.5
Best Estimate	0	0.03	0.2

Description and scale of key monetised costs by 'main affected groups'

In the best estimate, the key monetised cost is the increased administrative cost to LAs of conducting reviews every three – rather than every five – years: £0.2m, in present value terms. Discussions with licensing and trade representatives have confirmed they do not expect the number of CIPs to change. We have therefore assumed no costs to business; however this will be tested in the sensitivity analysis.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0.6	5.1
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

Discussions with licensing and trade representatives have confirmed that the number of CIPs is unlikely to change, therefore no major monetised benefits are expected.

Other key non-monetised benefits by 'main affected groups'

The licensed trade should benefit from having CIPs applied in a consistent, proportionate, transparent, manner. The trade will also benefit from the requirement to have CIPs reviewed at least every three years as it will ensure they are based on up to date evidence and that retaining a CIP is appropriate and proportionate for the promotion of the licensing objectives. LAs will be afforded increased legal clarity and certainty in their role in implementing and retaining CIPs. The public and customers of licensed venues should benefit from living in and visiting areas where problems in the night time economy, such as alcohol-related crime and disorder, are managed effectively and proportionately.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The key sensitivity is the extent to which the use of CIPs increases or decreases. The best estimate is that the use of CIPs will be unchanged. This assumption has been tested in the sensitivity analysis.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0		

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

Alcohol licensing

1. The Licensing Act 2003 (“the 2003 Act”) regulates (in England and Wales): the sale of alcohol (and its supply in club premises with membership); the provision of entertainment and late night refreshment (i.e. hot food and drink between 11 pm and 5 am). Licensing authorities (LAs) – i.e. district and borough councils or unitary councils – administer the system of licensing under the 2003 Act. LAs must carry out their functions with a view to what is appropriate to promote the statutory licensing objectives (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm).
2. There are currently three different kinds of authorisation under which the licensable activities can be provided:
 - Premises licences: to use a premises for licensable activities, subject to conditions.
 - Club Premises Certificates: to allow a qualifying club (i.e., a members’ club such as a working men’s club or a political club) to engage in qualifying club activities, including supplying alcohol to members, again, subject to conditions on the certificate, and;
 - Temporary Event Notices, which enable the user to carry out licensable activities without other authorisation either for “one-off events” or by existing licensees who wish to carry out licensable activities beyond what is set out in the terms of their licence.

Licence applications

3. Written applications for premises licences and club premises certificates must be accompanied by an operating schedule. In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area (see below). They must also be aware of the expectations of the LA as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Applications are subject to representations by ‘responsible authorities’¹ (RAs) (including the local police, fire and rescue authority and environmental health authority) and other persons. Such representations must be ‘relevant’ i.e. relate to one or more of the licensing objectives and, if made by persons other than a responsible authority, must not be frivolous or vexatious. If relevant representations on an application are received and are not withdrawn, the LA must hold a hearing to consider the application (unless all parties agree that a hearing is not necessary). The hearing is the chance for the licensing committee to discuss the representations presented by all parties and the steps that are appropriate for promoting the licensing objectives. If an application for a premises licence or club premises certificate has been made lawfully and there have been no relevant representations against the application, the LA must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act.

Statements of licensing policy

4. Section 5 of the 2003 Act requires LAs to prepare and publish a statement of their licensing policy (SOLP) at least every five years. During the five-year period, the policy must be kept under review and the LA may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. A LA may depart from its own policy in the interests of promoting the licensing objectives if

¹ Responsible authorities under the 2003 Act are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. The responsible authorities are set out at section 13(4) of the 2003 Act.

the individual circumstances of any case merit such a decision, but it should be able to give full reasons for doing so.

Cumulative Impact Policies

5. 'Cumulative impact' is not defined in the 2003 Act. However, it is described in the statutory guidance issued under section 182 of the Act as "*the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area*".
6. In areas where the number, type or density of licensed premises is high or exceptional, this can lead to problems of nuisance and disorder, for example as a result of large numbers of drinkers being concentrated in an area when leaving premises at peak times or when queuing at fast food outlets or for public transport. Where LAs can provide evidence that the number of licensed premises in an area is causing or contributing to these problems, they may choose to include them in a special policy called a 'cumulative impact policy (or 'CIP')'. CIPs may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment, including late night fast food outlets which are not licensed to sell alcohol. CIPs can relate to any of the licensing objectives but most commonly relate to crime and disorder.
7. The effect of a CIP 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 on the licensing objectives will normally be refused or subject to certain limitations following relevant representations, unless the applicant can demonstrate in the operating schedule that the application will not add to the existing cumulative impact. The statutory guidance states that applicants applying in CIP areas should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives. CIPs cannot apply to temporary event notices under the 2003 Act.
8. A CIP should never be absolute, and SOLPs should allow for the 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. CIPs should therefore not be used to impose quotas on the number of licensed premises in an area. A CIP does also not relieve responsible authorities (or any other persons) of the need to make a relevant representation, so that if the LA decides that an application should be refused it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved. In making a representation, responsible authorities and other persons may refer to information which had been before the LA when it developed its SOLP. If there are no representations, the LA must grant the application in the normal way in terms that are consistent with the operating schedule submitted.
9. Since 2012 LAs have been able to make representations under the 2003 Act as a responsible authority in their own right². They may do so where they consider it appropriate, without having to wait for representations from other responsible authorities. An LA may therefore decide that granting a new licence in a CIP area will add to the cumulative impact of licensed premises in that area and decide to make representations to that effect, without waiting for any other person to do so. In such cases the responsible authority and decision making functions of the LA would need to act separately.

Use of CIPs

10. CIPs are seen as a valuable tool by licensing and enforcement partners. Home Office and DCMS statistics³ show that the number of CIPs in place in England and Wales has risen steadily since March 2008 (no figures are available before 2007/08) with over 200 CIPs in place

² This change was introduced by the Police Reform and Social Responsibility Act 2011 as a means of early intervention.

³ <https://www.gov.uk/government/collections/alcohol-and-late-night-refreshment-licensing-england-and-wales-statistics>;
<https://www.gov.uk/government/collections/alcohol-entertainment-late-night-refreshment-licensing-statistics>

across England and Wales by March 2014. However, it is unclear whether all LAs are making best use of CIPs. The latest statistics show that rejection rates in CIP areas are more than double those in non-CIPs areas, however the proportion of licences granted in CIP areas remains high. In 2013/14, 92% of new premises licence applications and 90% of applications to vary a premises licence were granted in CIP areas, compared to 97% in non-CIP areas. However, LAs have suggested that grant rates remain high in CIP areas because the quality of applications increases when CIPs are put in place. In 2013/14 approximately 10% of applications for new premises licences across England and Wales were made in CIP areas.

11. Industry partners are generally opposed to the concept of CIPs, as they feel they restrict new businesses while protecting existing poorly run premises and can displace problems to neighbouring areas. There are particular concerns from some industry groups that CIPs put small businesses at a disadvantage (for example if a small business cannot afford for a solicitor to make the application on its behalf and represent the business at a hearing) and discourage applications.
12. LAs have used CIPs in some areas to shape the types of applications granted, with some types of premises considered to be lower-risk, such as restaurants or gastro pubs being favoured over others such as vertical drinking establishments⁴. As a result, some stakeholders view CIPs as a barrier to commercial forces⁵ while others regard them as a facilitator of regeneration. LAs have also informed us that CIPs have the effect of encouraging discussions between applicants and the police and LA to help improve the quality of applications.
13. The Government committed in its Modern Crime Prevention Strategy⁶, published in March 2016, to putting CIPs on a statutory footing in order to provide greater clarity about how they can be used.

A.2 Groups Affected

14. **Members of the public** living and working in the vicinity of town centres and other areas with high densities of licensed premises impacted on by customers of those premises.
15. **Customers** using the night time economy including to purchase alcohol and late night refreshment.
16. **The licensed trade** including businesses wishing to open new premises and existing premises wishing to apply to vary the terms of their licence.
17. **LAs** who use CIPs to prevent problems escalating, particularly crime and nuisance in the night time economy, caused or contributed to by customers of significant numbers or densities of licensed premises.
18. **The police** who play the primary role as the body with responsibility for preventing crime and disorder and as a key partner for local licensing authorities.
19. **Other responsible authorities**, including the fire rescue authority, local health body and environmental health authority, who may have an interest in particular licensing decisions.

A.3 Consultation

20. Consultation with partners took place in two stages. Firstly, discussions with industry and licensing partners took place when Home Office officials were developing the Modern Crime Prevention Strategy during 2015. Partners were asked broadly for their views on proposals to prevent crime and disorder and manage the night time economy. CIPs were discussed and

⁴ Vertical drinking establishments are premises which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

⁵ <http://www.morningadvertiser.co.uk/Legal/Licensing-law/Cumulative-impact-The-impact-on-licensing>

⁶ <https://www.gov.uk/government/publications/modern-crime-prevention-strategy>

partners provided their views on how CIPs could be made more effective; a number of partners suggested that putting CIPs on a statutory footing would provide clarity on when and how they may be used. A number of partners raised concerns about the impact of CIPs if not used effectively.

21. The second stage of consultation on the Strategy commitment on CIPs took place after the Strategy was published. A series of workshops and discussions were held to discuss the details to be set out in legislation. A workshop was held in April 2016, attended by senior representatives of the Local Government Association (LGA), the National Association of Licensing and Enforcement Officers (NALEO), the Institute of Licensing (IOL), office of the National Policing Lead on alcohol and licensing and several LAs who use CIPs. Discussions also took place with licensing and enforcement partners at the LGA Licensing Policy Forum. Two workshops were held with industry partners in April and May 2016. These were attended by licensing lawyers and representatives from the British Beer and Pub Association (BBPA), Association of Convenience Stores (ACS), Association of Licensed Multiple Retailers (ALMR), the Retail of Alcohol Standards Group and the Wine and Spirits Trade Association (WSTA).
22. Attendees at the workshops were asked whether they welcomed giving CIPs statutory status and about the potential benefits, pitfalls and practicalities of doing so. A number of options were explored, including whether the presumption that applications will be refused should apply even where no representations are made. Partners felt that this option would be a significant change to the principles of the Licensing Act whereby uncontested applications must be granted. Discussions also concerned how applicants can demonstrate how their licence application would not add to the existing cumulative impact. Attendees were also asked to consider the merits of a formal requirement on LAs to consider whether it is appropriate to introduce a CIP; and a requirement to review any CIPs in their area when they review their SOLP (at least every five years). In the second workshop with industry partners, a more focussed discussion took place on particular concerns of the licensed trade around the process and procedure for introducing and scrutinising the evidence for CIPs.
23. Licensing and enforcement partners welcomed the proposal to put CIPs on a statutory footing as a way of providing legal certainty and confidence to LAs when implementing CIPs and making licensing decisions in CIP areas. Members at the Licensing Policy Forum saw the merits of a system where applications in contravention of a CIP are refused by default, even without the receipt of representations, as it was felt this would improve efficiency and place more onus on applicants to demonstrate how their application would not add to the existing cumulative impact. However, there was a general concern that any change in the law which permitted default refusals would lead to a large increase in hearings and increased costs. Even though the proposal would have allowed LAs to depart from their CIPs and grant an application if the individual circumstances of any case merited it, most LA representatives favoured keeping the decision making process the same. Some felt that LAs and other responsible authorities are often unclear about their role in relation to CIPs and that changing the 2003 Act was the most effective way of improving understanding. There was little appetite for a requirement for every LA to consider whether a CIP is needed when they review their SOLP, but no objection to having to make a simple statement on cumulative impact within the SOLP. Some felt that the requirement to only review SOLPs every five years meant that CIPs could remain in place for long periods without being reviewed.
24. Most industry partners were not opposed in principle to the proposed changes, but all wanted to use the opportunity to ensure clarity on the process and function of CIPs and transparency over the evidence used to implement CIPs. There was general agreement that CIPs can be implemented too easily under the current arrangements and that the licensed trade should have the ability to challenge the evidence used to support the introduction and retention of CIPs, either through a formal hearing before a CIP is implemented (as with the process for Early Morning Restriction Orders⁷) or a consultation process. There was support for requiring the evidence used to implement a CIP to be local, up to date and to show causal links between

⁷ The power to make, vary or revoke an Early Morning Restriction Order (EMRO) is set out in sections 172A to 172E of the 2003 Act. EMROs enable a LA to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

premises in the area and the local problems identified. Some wanted CIPs to have a fixed lifetime and expire unless the continuing need for a CIP could be demonstrated. Industry partners generally wanted the legislation to include sufficient detail on evidential requirements to ensure clarity and proportionality when CIPs are implemented and retained.

25. The clear message from all partners was that the changes should not reduce the flexibility of CIPs nor remove any discretion that LAs have to grant licences in CIP areas.
26. Her Majesty's Opposition tabled an amendment at the Commons Committee Stage of the Policing and Crime Bill in April 2016, proposing that LAs should be required to have regard to cumulative impact when granting licence applications. The Government agreed to consider this, noting that the commitment had already been made in the Modern Crime Prevention Strategy and that it planned to table its own amendment at a later stage, after consulting partners on the policy detail⁸.
27. No public consultation on this amendment is being carried out. This was considered to be unnecessary because CIPs are already in use and well established in many LA areas. The proposed legislation will not alter the principles of CIPs, with the main change being the requirement to review the CIP and the evidence on which it is based every three years. This change is above all about clarifying an existing practice through legislation, rather than developing a new policy proposal or change. The public is consulted about the introduction of individual CIPs in their local area when each LA consults on their SOLP; they therefore have the opportunity to influence the use of CIPs at a local level.

B. Rationale

28. We know that CIPs are seen as a valuable tool by licensing and enforcement partners and that many areas are using CIPs to good effect to improve the quality of applications, prevent further problems in the night time economy and, in some cases, to facilitate regeneration. However, feedback suggests CIPs are being used inconsistently and that not all LAs are making best use of the tool. Feedback from the licensed trade suggests that the inconsistent application of CIPs is considered to be restricting business in some areas. Under the present arrangements CIPs can be implemented on relatively weak grounds and remain in place for a number of years based on limited or outdated evidence. This can lead to disproportionate restrictions on new business and potentially an associated impact on communities where a CIP places restrictions on new leisure venues in town centres where this is not necessarily appropriate. Conversely, it could lead to a failure of CIPs to stand up to scrutiny and effectively prevent the escalation of problems caused by cumulative impact. This can mean that the public are left unsure about the level of protection offered by CIPs in their area. We are also aware that some LAs feel unclear about their role as a responsible authority when making decisions in CIP areas, in particular where the evidence base is weak.
29. Providing greater transparency and legal certainty on the required process through legislation should help to improve consistency in decision making and garner support from all sides.

C. Objectives

30. When based on robust evidence and effective consultation councils and police have reported positive effects of CIPs. The intention of the policy is not to increase or decrease the number of CIPs, but to add clarity and transparency for applicants, LAs and other responsible authorities on how CIPs are developed and operate.
31. Putting CIPs on a statutory footing will provide LAs with legal certainty and confidence when implementing and applying the evidence for CIPs in decision making. At the same time it will place a greater onus on LAs to ensure that the evidence they use as the basis of their CIPs is

⁸ [http://www.publications.parliament.uk/pa/cm201516/cmpublic/Policing/160412/pm/Commons-2016-04-12-Policing%20and%20Crime%20Bill%20\(Seventh%20sitting\).p.pdf](http://www.publications.parliament.uk/pa/cm201516/cmpublic/Policing/160412/pm/Commons-2016-04-12-Policing%20and%20Crime%20Bill%20(Seventh%20sitting).p.pdf) [page 341]

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 CIP it is based on up to date evidence and is appropriate and proportionate for the promotion of the licensing objectives.

D. Options

32. Option 1: make no changes (do nothing). The principles of CIPs will remain in guidance only for use by LAs if they choose as part of their licensing policy statement where there is evidence of cumulative impact (more detail on how CIPs currently operate is set out in section A.1).
33. Option 2: Amend the Licensing Act 2003 to place CIPs on a statutory footing while introducing a requirement on LAs to review the evidence on which CIPs are based at least every three years – more frequently than under the current system, where the SOLP review determines that the evidence for CIPs will be examined at least once every five years.
34. We will achieve this by adopting the principles described in chapter 13 of the statutory guidance issued under section 182 of the 2003 Act⁹. This will define cumulative impact in the legislation in the same way it is defined in the guidance (also see section A.1 above). The legislation will make clear that CIPs can apply to any of the licensable activities under the 2003 Act and that CIPs must be clear which licensable activities are included (e.g. the sale of alcohol for consumption on or off the premises or the provision of late night refreshment). The steps to implementing a CIP will closely mirror those set out in the statutory guidance. The steps include: the need to identify which of the licensing objectives the concerns of the LA relate to; the evidence to demonstrate the problems that are occurring and whether they are being caused or contributed to by licensed premises or their customers; the boundaries of the area where the problems are occurring and the process for consulting those bodies listed under section 5(3) of the 2003 Act¹⁰ before introducing a CIP.
35. It will also introduce a new requirement on LAs to review the evidence supporting a CIP at least every three years and publish a statement on the outcome of their review, including any updated statistics that they have used (as an addendum to their SOLP). This may be done as part of the review of the SOLP or on its own. Each time the CIP is reviewed the LA will be required to consult the bodies listed under s.5(3) of the 2003 Act, but we intend to retain the discretion that LAs have to determine the extent of the consultation.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

DATA

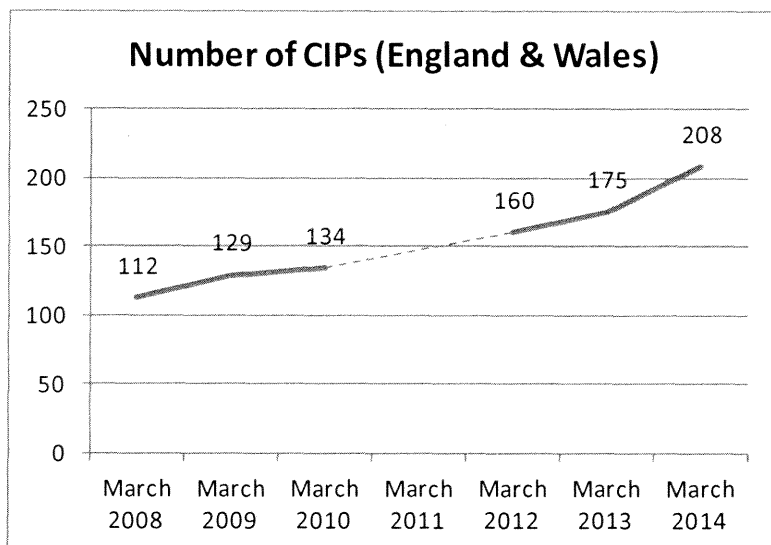
36. The steady rise in the number of CIPs in place in England and Wales since 2007/08 is shown in Chart E.1 using figures from the Home Office **Alcohol and late night refreshment licensing statistics** from 2011/12 – 2013/14 and the DCMS **Alcohol, entertainment & late night refreshment licensing statistics** from 2007/08 – 2009/10 (no figures are available before 2007/08 or for 2010/11 and 2014/15).
37. Data on the numbers of licence applications made and refused, and the split of licensed venue by rateable value, were both sourced in Government Alcohol and Late Night Refreshment Licensing Statistics¹¹.

⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

¹⁰ Before determining its policy, the licensing authority must consult the chief officer of police for the area; the fire and rescue authority for the area; each local authority's Director of Public Health in England or Local Health Board in Wales for an area any part of which is in the licensing authority's area; 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 its area.

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384094/alcohol-late-night-licensing-tabs-2014_ods

Chart E.1: Number of CIPs



ASSUMPTIONS: *Best estimate*

38. It is assumed that the cost faced by an LA in administering the three-yearly evidence review for CIPs is equal to the estimated cost of “Analysis of consultation responses”, as given in the 2016 Late Night Levy IA: £1,050. This assumption has been made on the basis that the task of analysing consultation responses is likely to involve administrative and analytical work of a similar nature to the CIPs evidence review. However, it may be the case that the evidence review would require more or less work than the analysis of consultation responses. CIPs evidence reviews previously occurred at least every five years, implying an estimated annualised cost of £210, and will now occur once every three years, giving an estimated annual cost of £350; the annual additional cost is the difference between the two values: £140.
39. In the best-estimate case, it is assumed that placing CIPs on a statutory footing has no effect on the number of CIPs implemented. This assumption is justified on the basis that no stakeholders – including LAs, police and representatives of the licensed trade – have stated that they expect this policy to make it more difficult for a licence to be granted (see section A.3 for more detail on the results from the consultation).
40. It is also assumed the number of CIPs will not increase beyond 2014 levels as it is considered there is a natural limit in the number of town centre and night-time-economy hubs where problems caused by cumulative impact are likely to occur. The 2003 Act has also been in force since 2005 and over that time councils’ statements of licensing policy and the system as a whole has matured. It is therefore assumed that we have already been through the main period of rising CIP numbers and that the most likely scenario is that the trend will flatten out in the future.

ASSUMPTIONS: *High- and low-cost scenarios*

41. The high and low cost scenarios are driven by the change in the number of CIPs. It is assumed that the annual percentage change in the number of CIPs areas from 2013 to 2014 (19%) gives an appropriate range for high- and low-cost scenarios. This is done by increasing (/decreasing) the volume of CIPs by that percentage in the high- (/low-) cost scenarios.
42. It is assumed that the effect of CIPs is a higher application rejection rate, which is estimated using the difference between the CIPs and non-CIPs rejection rates from 2013/14 licensing data. In that data, the rejection rate for CIPs areas was 8%, and for non-CIPs areas it was 3%; the difference gives an increase in the rejection rate attributable to CIPs of five percentage

points. This does not take into account the possibility of fewer licence applications due to CIPs being enforced. If data on the number of applications made in CIPs and non-CIPs areas over time were available, that data would have been used instead. While it is possible that the variation in rejection rates is attributable to factors other than CIPs, the evidence shown here is the best available, so it is used in calculations.

43. Foregone profit to licensed venues is derived from approximate data provided to the Home Office by the Association of Multiple Licensed Retailers. Raw data was provided in the form of typical weekly turnovers for venues across fee bands, and a typical rate of profit for licensed venues. This enabled the estimation of annual profit by fee band. To find the profit for a representative venue, these profits by fee band were weighted by the proportion of venues in each band. These values are shown in Table E.1. The key result is that the estimated profit per venue, calculated as a weighted average of the profits by fee band, is £72,400¹².
44. It is assumed the transfer rate of profit from venues that do not open as a result of CIPs is zero. While it is plausible that some profit from those venues would transfer to those in the area that are open, this has not been accounted for in calculations because of the uncertainty of the behavioural changes and unknown capacity of existing venues.

Table E.1: Licensed venue profits by fee band

Fee Band	Estimate annual profit	Percentage of premises ¹³
A	£20,800	21%
B	£31,200	54%
C	£39,000	14%
D	£65,000	4%
E	£520,000	8%
Average	£72,400	100%

COSTS AND BENEFITS

45. There is no robust evidence available on the relationship between CIPs and reductions in problems such as nuisance and crime and disorder therefore an assessment of their impact has not been included in the cost/benefit analysis. CIPs are one of a suite of many tools and powers available to local authorities to help prevent problems in the night time economy and so isolating the effect of CIPs on, say, crime levels is therefore not possible. However, feedback from police and licensing authorities suggests that CIPs are an effective tool for preventing and reducing problems. There are a number of reasons for this, which are set out in detail in the preceding sections.

OPTION 1 - This is the baseline “do nothing” option. The principles of CIPs will remain in guidance only for use by LAs if they choose as part of their licensing policy statement where there is evidence of cumulative impact.

46. The costs and benefits of Option 2 are assessed relative to Option 1 (i.e. additional costs and benefits above the “Do nothing” scenario).

OPTION 2 - Place CIPs on a statutory footing under the 2003 Act

¹² Recreating calculations using values given in this document may not give results that exactly match those given here. This is because values in the document have been rounded, whereas unrounded values were used in performing the calculations.

¹³ <https://www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2014-data-tables>

Introduce a requirement on LAs to review the evidence supporting a CIP at least every three years; consult the bodies listed under section 5(3) of the 2003 Act as part of the review; and publish a statement on the outcome of their review.

COSTS

Best estimate

Public sector costs

47. The additional requirement on LAs to conduct and publish the outcome of a review of the evidence supporting CIPs at least every three years, including consulting the list of bodies under s5(3) of the 2003 Act, will result in additional costs for councils. However, as per the current arrangements for consulting on SOLPs, LAs will be able to determine the extent of the consultation it should undertake. Up until 2012 the 2003 Act required SOLPs (and therefore any CIPs included in the SOLP) to be reviewed at least every three, not five years, so this is not an entirely new process for LAs. Feedback from a group of LAs on this part of the proposal suggested that this would be a sensible approach and an acceptable burden on councils' resources.
48. In the best estimate case, where the number of CIPs remains unchanged, each of the 208 CIPs incur an additional annual review cost of £140 (as derived in the Assumptions section). This aggregates to an annual cost of £29,000 to the public sector. There is no cost imposed on LAs that are currently unaffected by CIPs because we assume the number of CIPs does not change.

Business costs

49. In the best estimate case, we assume that there will be no impact on business. This assumption has been informed through discussions with LAs and the licensed trade who did not state that they anticipated this policy leading to an increase in the number of CIPs. However, we have tested this assumption in the sensitivity analysis below.

Costs to the public and customers

50. In the best estimate case, there is expected to be no impact on the public or customers of licensed venues, as the number and type of venues available is not expected to change.

Sensitivity Analysis: High Scenario

51. In the high scenario, increased costs are driven by higher volumes of CIPs. The clarity and rigour that the change will bring to the process may encourage LAs to apply the evidence in support of their CIPs more regularly. This may increase the number of CIPs, with associated costs for LAs for officer and members' time and legal advice.

Public sector costs

52. Evidence on the potential increase in CIPs usage is not available. For this reason, the percentage increase from 2013 to 2014 is used as a proxy. That year saw an increase from 175 to 208 CIPs (19%). Applying that percentage increase to the current number of CIPs leads to an estimate of 247 CIPs. Under this option each of those CIPs is estimated to impose a consultation cost on LAs of £350 per annum, giving a total cost to LAs of £86,000 per annum from conducting and publishing the outcome of a review of the evidence supporting CIPs. However, in the "Do nothing" scenario, the annual cost of reviews is £210 for each of 208 LAs, costing £44,000. The additional annual cost is therefore £43,000¹⁴.

Business costs

¹⁴ Figures may differ from component parts due to rounding.

53. There were 920 licence applications across 208 CIPs in 2014. In this scenario, we assume that there are 19% more CIPs established in the first year of the policy, therefore 174 additional licence applications are made under CIPs. The rejection rate of licence applications under CIPs is expected to be 5% higher, therefore 8 additional licence applications are estimated to be rejected due to CIPs. If the average forgone profit per licence rejection is £72,000, the total foregone profit is estimated to be £614,000.
54. Businesses whose applications are subject to representations from LAs and other responsible authorities will have an opportunity to put their case to the committee at the resulting hearing. If the number of hearings increases as a result of these changes, there would be additional costs of legal representation for businesses. However, hearings are an important part of the licensing process, in particular in CIP areas, and representations which lead to a hearing do not usually result in an application being rejected outright, but more often in a set of conditions which allow the application to be granted in a way that is compatible with the LA's SOLP and the promotion of the licensing objectives. Alternatively, applicants can seek to work with the authorities to reach an agreed way forward that avoids the need for a hearing. Data on the relationship between CIPs and the number of hearings is not available; therefore this cost has not been quantified.

Costs to the public and customers

55. Customers may face the costs of higher prices due to reduced competition, and more constrained choice. Substantial additional analysis would be required to estimate the potential impact therefore this potential cost has not been quantified.
56. The total quantified costs are estimated to be £656,000 under the assumptions in the high-cost scenario.

Sensitivity Analysis: Low scenario

57. In the low scenario, fewer CIPs are assumed to be in place in future than are at present. This could be driven by the requirement to review CIPs every three years, with greater levels of scrutiny meaning that CIPs are put in place and retained less often. It could also be the case that LAs judge that enforcing marginal CIPs is not cost effective relative to the risk of successful legal challenge.

Public sector costs

58. When compared to the 'do nothing' option public sectors costs will rise from more frequent evidence reviews, however they will be lower than the 'best estimate' due to lower volumes of CIPs in place. Quantitatively, this effect is approximated by assuming a fall in the use of CIPs equal in magnitude to the 2013/14 increase in the use of CIPs: 19%. A 19% reduction from 208 gives 169 CIPs. Each of these would incur the increased review cost of £350, giving an estimated cost of £59,000 imposed on LAs. As with the High scenario, this value should be considered relative to the "Do nothing" cost: £44,000. Therefore, the net cost is £15,000.

Business costs

59. No costs to business have been identified.

Costs to the public and customers

60. No costs to customers have been identified.
61. The public may face the cost of experiencing increased levels of alcohol-related disorder.

BENEFITS

Best estimate

Public sector benefits

62. Putting CIPs on a statutory footing will help introduce consistency and rigour to help LAs and the police effectively manage local issues, including alcohol-related crime and disorder, without impacting unfairly on businesses.

Benefits to business

63. In the best estimate case, we assume that there will be no impact on business as we assume the volume of CIPs will not change.

64. This measure should provide greater clarity to would-be applicants about what they need to do when applying for a licence in a CIP area. Feedback from the licensed trade suggests that the inconsistent application of CIPs is considered to be restricting business. Therefore, more consistent application of CIPs should reduce these restrictions. This effect has not been quantified because insufficient data is available.

Benefits to the public and customers

65. The public – those living in areas affected by CIPs – and customers of licensed venues should benefit from living in and visiting areas where alcohol sales are controlled in a transparent, proportionate manner.

High-cost scenario

Public sector benefits

66. If applied appropriately, an increase in the application of CIPs could lead to reductions in alcohol-related crime and disorder and subsequent reductions in monitoring and enforcement costs.

Benefits to business

67. Higher volumes of CIPs could benefit existing businesses in those areas as new competition is likely to be limited.

Benefits to the public and customers

68. Increase application of CIPs may be beneficial because, if applied appropriately, it could lead to reductions in alcohol-related crime and disorder, benefitting the public through greater levels of safety and amenity.

Low-cost scenario

Benefits to business

69. Fewer businesses are likely to face licence rejections in the scenario where fewer CIPs exist, as rejection rates are assumed to be 5 percentage points lower. Symmetrically to the high-cost scenario, 8 rejections are assumed to no longer occur allowing those businesses to make an estimated £72,000 of profit. This leads to a net benefit to business of £614,000.

Benefits to the public and customers

70. A reduction in the number of CIPs could lead to increased consumer choice, which benefits those that would use licensed venues.

NET BENEFIT

Best estimate

71. The quantified annual net benefit of the policy is -£29,000. This cost falls entirely on LAs. The ten-year NPV of the policy is -£240,000. The quantified EANCB and Business NPV are both 0.

High-cost scenario

72. The quantified annual net benefit of the policy is -£656,000, shared between LAs and businesses that apply for licenses. The ten-year NPV of the policy is -£5,459,000. The quantified EANCB is £614,000 and the Business NPV is -£5,103,000.

Low-cost scenario

73. The quantified annual net benefit of the policy is £598,000, shared between LAs and businesses that apply for licences. The ten-year NPV of the policy is £4,976,000. The quantified annual net cost to business is -£614,000 and the Business NPV is £5,103,000.

F. Risks

OPTION 2 – Place CIPs on a statutory footing under the the 2003 Act while retaining the flexibility and discretion that LAs have when making decisions on applications in CIP areas. Introduce a requirement on LAs to review the evidence supporting a CIP at least every three years; consult the bodies listed under section 5(3) of the 2003 Act as part of the review; and publish a statement on the outcome of their review.

74. The risks of this option are minimal as it is enshrining an existing process in law and providing improvements for all sides concerned. Aside from the potential costs set out above there is very little risk and uncertainty with taking this option forward. There is some uncertainty over the possible impact of the new requirement to review the evidence and consult on the need for a CIP at the three year point. However, a similar process takes place under the current arrangements at the main five year review (or until 2012 three year review) of the SOLP, or if an LA decides to introduce a CIP at another time of its choosing.

75. There is some uncertainty to whether putting CIPs on a statutory footing will lead to more or fewer CIPs. The change could encourage LAs which don't currently have CIPs in place to actively consider whether they need one and this could in turn lead to an increase in CIPs and a reduction in applications as a whole. Equally, the changes should reduce the risk of CIPs being over used due to the requirement for the three year review of the evidence base and the legal certainty that giving CIPs statutory status will bring. However, our best estimate is that there will be no change in the number of CIPs following discussions with licensing and trade partners. However, to mitigate the risk that they might change we have tested this assumption in the sensitivity analysis.

G. Small and Micro Business Assessment

76. CIPs provide a mechanism for LAs to control the number or type of applications that are granted for new premises or variations of licences in areas where the number, type or density of licensed premises is high or exceptional and has led to problems such as nuisance and disorder. Given the important objective behind CIPs, it would not be reasonable to exempt small and micro businesses from the process, as it may be appropriate to restrict applications from such businesses in CIP areas in order to promote the licensing objectives.

77. However the rationale behind this impact assessment is to ensure that businesses subject to the new statutory process are treated fairly. The concept of CIPs is well established in the licensing regime and the number of CIPs has increased steadily over time. As set out above, trade groups have general concerns about the disproportionate impact of CIPs on small

businesses as they usually lack the knowledge and resources to challenge LA decisions to refuse or restrict their licence applications.

78. For the reasons set out above, we do not expect this policy to have a significant impact on the number of CIPs implemented each year or on the rate that licence applications in CIP areas are granted. However, the policy will add clarity and consistency to the process which should assist small businesses when making applications by knowing where they stand and what is expected of them. The proposal to include a requirement for LAs to conduct and publish the outcome of a review of the evidence for CIPs at least every three years will help ensure that where restrictions are put in place on small businesses, it is proportionate to do so in the interests of promoting the licensing objectives.

H. Family Impact Test

79. CIPs are designed to ensure problems of crime and disorder associated with high densities of local premises are prevented. The number of CIPs is not expected to change and it is considered that the impact of this policy at the family level is small and indirect and temporary in nature. In accordance with Department for Work and Pensions guidance it is therefore considered that it would not be sensible or proportionate to apply the family test.

I. Enforcement

80. CIPs are not an enforcement tool but rather a way of preventing the escalation of problems relating to crime and disorder, public safety, public nuisance and the protection of children from harm. The preferred option 2 is therefore compatible with enforcement activities being conducted in a fair, open and proportionate manner. The rights of all parties have been considered without risking any undermining of the licensing objectives.

J. Summary and Recommendations

81. The recommendation is that Option 2 is pursued, for the reasons set out in the preceding sections.

K. Implementation

82. The Government plans to include these proposed changes as a Government Amendment in the Policing and Crime Bill. Subject to parliamentary approval, the Bill is expected to gain Royal Assent in 2017 and so the earliest that these proposals are likely to come into effect would be during 2017.

83. Guidance will be provided to LAs and the police when the changes come into effect. Guidance on the existing process is available on Gov.uk¹⁵.

L. Monitoring and Evaluation

84. The effectiveness of the new regime would be monitored by studying the latest licensing statistics on Gov.uk¹⁶ to monitor any change in the use of CIPs.

M. Feedback

85. The Home Office will seek feedback from LAs, police, licensing lawyers and trade representatives on how the new process is working from their perspective. In addition the Home Office will seek feedback on the Guidance, including if it needs amending once the process is established in legislation.

¹⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf [see chapter 13]

¹⁶ <https://www.gov.uk/government/collections/alcohol-and-late-night-refreshment-licensing-england-and-wales-statistics>