

## **A guide to cumulative impact and saturation policies**

### **Background**

The Licensing Act 2003 came into effect on 25 November 2005. It introduced a brand new licensing system for

- The sale and supply of alcohol;
- The provision of “regulated entertainment”, which includes music / dance / film / theatre / indoor sport; and
- The provision of late night refreshment such as hot food and drink sold after 11.p.m. and 5.a.m.

The Act also established four licensing objectives. These are

- The prevention of crime and disorder
- Safety
- The prevention of nuisance
- The protection of children from harm.

The Act made the local licensing authority responsible for the new licensing system and established that it would be the authorities role to promote the four licensing objectives. In Southwark the local licensing authority is this Council.

The Act and other related legislation provide a range of powers for licensing authorities and their partners to tackle problem premises. For instance, legal action can be taken for operating without a licence; for selling alcohol to children or to people who are already drunk. Power exists for licences to be reviewed where premises are giving rise to concerns. However, tackling problems arising from the combined effect of having a number of premises operating in close proximity to each other in a small area is not so straightforward.

To help this situation, the guidance to the Licensing Act 2003 issued by the Department of Culture Media and Sport in 2005 makes it possible for licensing authorities to consider introducing special policies, known as “saturation policies”, in certain areas. Saturation policies can be introduced in areas where the combined impact or “cumulative” effect of licensed premises in the area on the four licensing objectives, is sufficient for the authority to decide that the growth of premises of a similar nature in that area needs to be controlled.

The guidance states that where the authority has evidence to show that a special policy is necessary, it can, following consultation in that local area, introduce a policy that no further licences will be granted to similar premises unless the applicant can show that the licensing of his premises will not add to the problems that have already been identified.

## **How the policy would work**

Normally, when an applicant applies for a premises licence under the Licensing Act 2003, the applicant has an entitlement to the licence they are seeking to obtain. A number of “responsible authorities” such as the Police and Fire Authority, and local residents have the ability to raise concerns or representations about the application. If no concern is raised, then the licence will be granted subject to any conditions which are set out in the Act, or are consistent with the applicant’s “operating schedule” which forms part of the application. The “operating schedule details the applicant’s proposals for the operation and management of the premises. Where a saturation policy is in place, what is known as a “rebuttable presumption” is created. This introduces a subtle change to the position. Now instead of having an entitlement to the licence, the applicant must demonstrate that the grant of the application will not add to the existing problems.

This does not mean, however, that no further licences can be granted. The policy is not applied automatically. It still requires one of these responsible authorities or one or more local residents to lodge representations about an application with the local licensing authority. Once this happens, the policy comes into effect. If no representation is received then it remains that a licence must be granted that is consistent with the terms of the operating schedule.

It should be understood that the purpose of the policy is to maintain the current position / status quo. The policy does not enable the licensing authority to withdraw or cut-back licences it has already issued. It does not allow the licensing authority to impose quotas that would prevent an application being considered upon its own merits. It does not allow the licensing authority to set limits on the hours of licences that it grants in the future.

## **Establishing the policy**

A policy cannot be considered until the council has consulted on the matter in the local community with the licence holders and businesses and local residents that may be affected.

All views received from this consultation exercise will be reported firstly to the Council’s Licensing Committee. Any decision to approve a saturation policy will be taken, however, by the full Council Assembly and announced in the press. Any local saturation policy will then become part of the Council’s overall statement of licensing policy.

Any saturation policy is required to be monitored and amended or removed if the original concerns which led to the policy being introduced are satisfied.