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**Bristol City Council (BCC)**

## **City Centre Cumulative Impact Assessment Consultation**

### **Response on behalf of TLT Solicitors**

#### **1. Introduction**

This response to Bristol City Council's call for evidence in relation to the Cumulative Impact Assessment is made on behalf of the licensing team at TLT LLP ('TLT').

TLT is regularly ranked as one of the leading licensing advisers in England and Scotland in both Chambers and Legal 500, the annual independent guides to the legal sector, driven by client feedback.

We advise a broad range of clients from national operators to smaller independent organisations and sole traders. Our clients cover the whole range of hospitality and retail operations, from hotels, bars, clubs and restaurants to major music festivals, concert halls, food halls, sports clubs and race course operators. We support one-off events and venues, as well as businesses with property estates that run into the thousands. Our advice is bespoke and designed around our client's business need.

Our client portfolio requires us to understand and advise on all aspects of premises licensing, whether it is technical legal advice or business oriented operational guidance.

We advise at every level, from board level strategy to operational matters at individual premises. We lecture on licensing for council officers, councillors and responsible authorities on behalf of the Institute of Licensing, as well as for operators and their advisers and other practitioners at national conferences and events. We write regularly for a number of journals and publications. From initial advice through to advocacy at hearings, our licensing team has significant expertise, with individual partners and other solicitors top-ranked in the national legal guides.

We have experience of working with all of the licensing authorities in England and Wales and are the only truly national practice in the Great Britain, with a large and successful licensing team in Scotland that serves our clients across both jurisdictions.

The licensing practise in England and Wales is primarily based in Bristol. Our solicitor advocates have appeared before BCC Licensing Committee on numerous occasions since the introduction of the Licensing Act.

#### **For what comes next**

TLT LLP is a limited liability partnership registered in England & Wales (number OC 308658) whose registered office is at One Redcliff Street Bristol BS1 6TP

A list of members is available for inspection at that address.

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We sit on the Bristol Nights Board—which aims to assist in policy making and strategy for the City in relation to all matters pertaining to the night time economy, including licensing.

As such, we are ideally placed to respond to this call for evidence.

## **2. General comments in relation to Cumulative Impact Policies ('CIP's')**

We fully accept that there may be occasion where a CIA provides a valuable tool to local authorities in regulating the night-time economy. Our experience is, however, that they can also be an impediment to businesses and the development of a thriving night-time economy. They can act as a brake to entrepreneurship, adding to the challenges that small business operators face when looking to enter a new market or look to adapt their offer to suit market trends.

CIAs can have the effect of dissuading operators from even attempting to apply for a licence. Operators, especially smaller, innovative and dynamic new businesses, may well decide, at a time when inward investment into the city will be at a premium, not to take a risk on a site where there is a chance that a licence will be refused (or restricted) on policy grounds.

CIAs can unintentionally penalise operators considering smaller more novel applications simply because of the prohibitive cost, often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy within the CIA.

Any continuation of the city centre CIA will need to be scrutinised with an open mind and against his backdrop. We are aware that some parties in the council have voiced opinions that there are still lots of applicants for licences. However, this does not fairly reflect the number of parties who decide not to go ahead with applications in the first place.

## **3. CIP's and other Bristol strategies**

Licensing policies, and CIAs in particular, work best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time economy uses in a particular area.

The Bristol City Council Corporate Strategy 2022 – 2027, a copy of which can be found [here](#) acknowledges, amongst other things that the City “hospitality and tourism sector, night-time economy and cultural offer attract people from all over the world...Bristol’s cultural and creative economy brings vibrancy and life into all communities across Bristol. It also contributes significantly to the city’s economy through commercial venues, film and TV production, festival and events, as well as being part of an amazing hospitality offer for the city’s visitors and residents.”

Bristol Global City, which can be found [here](#), has as one of its key strategic outcomes, the desire to “creating a vibrant, cohesive and welcoming city and bringing opportunities for culture, business and education” and “to promote the city as a safe destination for overseas education, tourism and investment”

It is clear that the night-time economy, in its widest sense, is an important and significant factor in making Bristol the city that it is, not only for its residents but in attracting visitors from across the world to the City.

The existence of a City Centre CIA in Bristol does little to support these overriding strategic objectives of the City

#### **4. Bristol City Centre CIA**

When the Council last consulted on the City Centre CIA we commented, at that time, “that BCC suspends their consultation on a city centre CIA for the time being. In time this can be re-visited when the dust has settled. The position can be reviewed when there is greater certainty about the long term future.

No party will be prejudiced by this decision. The police, and other responsible authorities, can still make representations to applications, citing the effect of a cumulative impact, without the need for a formal policy to be in place.”

Whilst we were pleased to see that the Broadmead area of the city was removed from the city centre CIA it was disappointing that, at that time, the Council did not suspend consideration of the city centre CIA given that the sector (and indeed the wider economy) were still in the grips of the pandemic, which, to this day, has an on-going and detrimental impact on the hospitality sector. The withdrawal of the off sales exemption which is due to come into effect from 1 October 2023 will do little to ease the pressures on the sector.

The cost of living crisis has also required businesses to pivot quickly to maximise revenue. This may be by offering bar services in a restaurant, increasing customer space inside and outside, reducing door supervisor numbers to reflect lower customer numbers, extending hours, or removing food altogether where it is too expensive to run a kitchen. In all of these cases, arguably, a CIA can be used to refuse the applications, or more likely send the applicant through an expensive process to a committee hearing. Not only this, even a short delay of a month so a matter can go to a hearing can be critical to a business’s survival.



## 5. An Alternative Approach to a CIA

For the reasons given in 2 above, we do not support the on-going retention of the BCC City Centre CIA.

If it is determined that there is good empirical and amenity evidence, that can bear scrutiny, for maintaining the city centre CIA, we believe that an assessment is needed as to exactly what the CIA is designed to catch.

It is important to recognise that different types or styles of premises are likely to have different impacts on the night-time economy. Whilst some may be viewed as high risk, others will not. Furthermore, within the city centre itself certain specific areas may be seen as “hotspots” (a word used by the Police in their previously provided data to support the CIA) significant parts of the proposed CIA are not. Both of these points are borne out by the aforementioned evidence.

If the city centre CIA is to be re-introduced, it should be made clear to everyone of its purpose/intention. For instance, if it is deemed that only larger late night or vertical drinking establishments are likely to add to the cumulative impact, then it should be made explicit that small, independent and/ or otherwise innovative applications both for new licences and variations to existing licences will be considered to be outside of the scope of the CIA even if the application is for an alcohol-led venue.

Such applications will still need to demonstrate that they do not undermine the objectives, but we would hope that adding something to this effect into the policy will stimulate and incentivise smaller operators to make applications.

Likewise, if the issue is simply to do with a preponderance of late-night refreshment facilities for takeaways leading to queues, noise and disturbance, there is nothing to prevent the policy from stipulating that late night refreshment premises looking only to increase hours for deliveries and not permitting customers to collect food will be deemed outside of the scope of the policy.

Given the exceptional circumstances that the sector continues to find itself in, if a decision is taken to maintain the city centre CIA, rather than approaching this on a “one size fits all approach” we would invite the Council to adopt a creative layered (as opposed to a binary) approach to this. This approach mirrors the recommendation that we made in our previous response when BCC last consulted on their city centre CIA

There is already a precedent for this in Leeds. There are similarities with Bristol in the approach adopted by Leeds City Council to their CIA. We would urge BCC engage with their colleagues (both members and officers alike) in Leeds (if they have not already done so) so as to understand the rationale behind the approach, how the policy has been adopted and the impact that this has had on the night-time economy.

- **Case Study: The Leeds policy**

Leeds recently consulted on its licensing policy which resulted in the removal of three CIAs.

The Council took the decision, however, to retain the City Centre CIA.

Leeds City Centre CIA, is a good example of the dynamic, and flexible, use of a CIA.

The CIA itself, is divided into three distinct areas - red, amber and green.

- Red Area

The council's policy is to refuse all applications in the red areas on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or existing premises extending their hours operation no matter how impressive the concept or application is.

The council's policy is to only grant applications in the red zone in truly exceptional cases.

- Amber

The amber area is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives.

The council expect applicants to offer additional measures tailored to the problems in that area.

- Green

All other areas within the City Centre CIA have been designated green areas where good quality applications will generally be more acceptable even though the area is a CIA area.

Such a dynamic use of policy demonstrates not only that a careful calculation has been made in ensuring that the CIA is actually required, but also demonstrates that there are differences in what



'cumulative impact' can mean in any given area and that these differences should be recognised in the policy.

The importance and impact of such an approach can be evidenced by a recent case that we, as a firm, were personally involved in.

Our client was seeking an extension of his licence for the sale of alcohol until 0100 on three days of the week. The premises were situated in a CIA. No other premises in the immediate vicinity had a licence permitting the sale of alcohol beyond midnight and other applications for extensions had, in the past, been refused. Unusually the application was supported by local residents, businesses and the local residents' amenity group

After a lengthy, and contested hearing, the application was granted.

When the premises were permitted to re-open after an extended period of closure due to "lockdown" we were contacted by our client who said that the licence extension had saved his business. Without the licence extension being granted, he would have been forced to close the business, with the consequent loss of jobs and a significant investment by the individual concerned.

## **Conclusion**

Bristol is a city which benefits hugely from the contribution that the hospitality and night-time economy makes. This not only makes the city a vibrant place to live and work in but also draws many people to the city as a holiday destination. This is reflected in the strategic policies that the Council has developed.

The benefits of CIA's must be weighed against the inevitable consequences of stifling growth and restricting new concepts from coming into an area. As such, the longer a CIA area has been in place, the closer the scrutiny must be as to its continued value and worth to the city as a whole.

In the event that it is not, an open mind and willingness to look beyond the 'headlines' is key to ensuring that CIA's are only maintained where they are essential and that in those cases, they only affect those applications that have been identified as likely to add to the problems that led to the implementation of the CIA. As the District Judge in the 'Brewdog' case said: 'a rise in footfall isn't a reason to refuse entry [to a new applicant].'

At a time when the hospitality sector needs all the support that it can get, if the city centre CIA is to be maintained, we would urge BCC to take a creative approach to this

Focussed and adaptive CIA's give clear guidance to applicants and officers alike and allow for development where it is needed and innovation where it will benefit otherwise downtrodden or tired areas of the City.

**TLT**

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