



City of Westminster

# Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 5th July, 2017**

Time: **10.00 am**

Venue: **Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR**

Members: **Councillors:**

|                          |                   |
|--------------------------|-------------------|
| Angela Harvey (Chairman) | Murad Gassanly    |
| Heather Acton            | Louise Hyams      |
| Julia Alexander          | Tim Mitchell      |
| Rita Begum               | Jan Prendergast   |
| Susie Burbridge          | Karen Scarborough |
| Melvyn Caplan            | Shamim Talukder   |
| Jean Paul Floru          | Aziz Toki         |
| Peter Freeman            |                   |

**Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.**

**Admission to the public gallery is by ticket, issued from the ground floor reception from 9.30am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Jonathan Deacon, Senior Committee and Governance Officer.**

**Email: [jdeacon@westminster.gov.uk](mailto:jdeacon@westminster.gov.uk) Tel: 020 7641 2783  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 1, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

**1. DECLARATIONS OF INTEREST**

To receive any declarations by Members and Officers of any personal or prejudicial interests in matters on this agenda.

**2. MINUTES**

To sign the minutes of the meeting held on Wednesday 22 March 2017 as a correct record of proceedings.

**(Pages 1 - 10)**

**3. DEVELOPING AN APPROACH TO TACKLE THE GROWING IMPACT ON LOCAL RESIDENTS FROM FOOD AND DRINK DELIVERY SERVICES**

Report of the Director for Public Protection and Licensing

**(Pages 11 - 18)**

**4. BUSINESS INFORMATION & LICENSING SERVICE PERFORMANCE REVIEW 2017**

Briefing Note of Director of Public Protection and Licensing

**(Pages 19 - 28)**

**5. LICENSING ACT 2003 - MODEL CONDITIONS**

Report of the Director of Policy, Performance and Communications

**(Pages 29 - 56)**

**6. EVENING AND NIGHT TIME ECONOMY LICENSING CHARTER PAPER**

Report of the Director of Policy, Performance and Communications

**(Pages 57 - 60)**

**7. LICENSING APPEALS**

Report of the Director of Law

**(Pages 61 - 64)**

**8. NOTTING HILL CARNIVAL**

An oral update will be provided at the meeting.

**9. ANY OTHER BUSINESS WHICH THE CHAIRMAN  
CONSIDERS URGENT**

**10. FUTURE LICENSING COMMITTEE MEETING DATES**

29 November 2017 and 21 March 2018.

**Charlie Parker  
Chief Executive  
30 June 2017**

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CITY OF WESTMINSTER

## MINUTES

### Licensing Committee

#### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 22<sup>nd</sup> March 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Angela Harvey (Chairman), Heather Acton, Julia Alexander, Susie Burbridge, Melvyn Caplan, Jean-Paul Floru, Murad Gassanly, Louise Hyams, Tim Mitchell, Jan Prendergast, Karen Scarborough and Aziz Toki

**Apologies for Absence:** Councillors Rita Begum, Peter Freeman and Shamim Talukder

#### 1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

#### 2 MINUTES

2.1 **RESOLVED:** That the minutes of the Licensing Committee meeting held on Wednesday 30 November 2016 be signed by the Chairman as a correct record of proceedings.

#### 3 CITIZENS ADVICE BUREAU LICENSING PROJECT ACTIVITY REPORT 2016

3.1 The Committee received the 2016 Annual Report of the Licensing Advice Project which is provided by Citizens Advice Westminster and funded by the Council. Richard Brown, a solicitor who specialises in licensing law, offers advice to local residents and businesses and is available to represent them at Licensing Sub-Committee hearings. He was in attendance at the Licensing Committee meeting and answered a number of questions from Members on the service provided, including the following:

- Councillor Caplan asked what was changing and evolving in Mr Brown's role and what could be done differently by the Licensing Sub-Committee? Mr Brown referred to seeing what recommendations the House of Lords Licensing Act 2003 Select Committee would make to the Home Office.

He had given evidence before the Committee in October 2016. He also made the point that he had never attended a Sub-Committee meeting where he had felt that residents had not had a fair hearing. He had found that residents tended to be happier after the hearing had taken place, when they had been given the opportunity to speak or had observed proceedings, than they were before the hearing began.

- The Chairman stated that one area she believed could be improved and was the reason it had been included as an item on the Licensing Committee agenda was communicating the Council's licensing work. She asked Mr Brown whether more could be done to promote the Licensing Advice Project service. Mr Brown replied that he would encourage any councillors, when approached by residents, to mention the Project. He added that there were a number of councillors who do that. Officers did inform residents of the service provided. He added that it would be difficult if every resident who objected to an application required his help. Mr Brown explained that most residents requested assistance rather than having everything done for them in opposing an application.
- Mr Brown clarified that by far the majority of his cases were on behalf of residents but he was available to help any 'interested parties' including businesses who objected to an application.
- Councillor Hyams asked whether other authorities had considered providing a similar service to the Licensing Advice Project. Mr Brown replied that he was the only one providing such a service in the country. Other authorities had expressed an interest, including when he had attended Institute of Licensing events. He added that a recommendation had been made by the Institute of Alcohol Studies this year that the advice service model would be beneficial to residents. It was one of the aims of the legislation in moving licensing decisions from magistrates' courts to local authorities that it would give residents more of a say.

3.2 Councillor Floru stated that he had observed that it was often difficult for the applicants who had smaller businesses and did not employ a legal representative at Licensing Sub-Committee meetings. Annette Acik, Head of Licensing, responded that the Licensing Service had discussed making the application process as simple as possible whilst being subject to the requirements of the legislation. The discussions within the Licensing Service had included whether some form of mediation service could be provided, fulfilling both a regulatory role and a supportive role. This would need to be examined with the Chairman of the Licensing Committee. Councillor Gassanly suggested a parallel licensing advice project which would help applicants.

3.3 The Committee thanked Mr Brown for the all the work he had done which had helped to promote the licensing objectives.

3.4 **RESOLVED:** That the Committee noted the Activity Report produced by the Westminster Citizen Advice Bureau Licensing Project.

#### **4 DEVELOPING A VISION FOR THE EVENING AND NIGHT TIME ECONOMY IN WESTMINSTER**

- 4.1 The Chairman recommended that the Council always referred to the 'Evening and Night Time Economy' rather than the 'Night Time Economy' as it was a more appropriate description of what the Council was trying to achieve.
- 4.2 The report was introduced by Annette Acik, Head of Licensing. She thanked Richard Cressey, Principal Policy Officer for writing the report. She also referred to the commitment in City for All 2017/18 to 'set out a clear vision and plan for our night time economy, to promote the interests of residents, businesses and visitors'. The report summarised how the Council would start to do that prior to implementing the vision. There would be engagement with Members, residents, industry and businesses and other key stakeholders such as the Police.
- 4.3 Ms Acik picked up on a point made earlier by the Chairman that the Council would potentially be able to assist its fellow London boroughs in relation to the evening and night time economy. Ms Acik stated that Westminster had the largest evening and night time economy in the country and Members and officers had a local perspective, expertise and knowledge that can be used to lead both Westminster and London as a whole.
- 4.4 Ms Acik referred to the trends set out in the report including that 'traditional' forms of nightlife and entertainment are in decline. As could be seen in the number of applications received by the Licensing Service, cafes and restaurants were on the increase. The number of applications received for pubs, bars and nightclubs was somewhat more variable.
- 4.5 Ms Acik referred to the Mayor's ambition to 'make London a 24-hour city that's open to all'. The Mayor had also talked about diversification away from alcohol-led activity. The Council's policy supported diversification away from alcohol-led activity and also protecting residents.
- 4.6 Ms Acik also drew Members' attention to the fact that the evening and night time economy did not relate just to licensing. Other areas were relevant, including economic development. It was necessary to link up with these other areas. There was a list of key principles set out at paragraph 4.9 of the report for discussion.
- 4.7 A number of points were made by the Committee, including the following:
- Members supported the Chairman's view that there is an urgency to shape the debate on the evening and night time economy and potentially assist other London boroughs. They also supported her view that the term 'evening and night time economy' was more applicable.
  - Members had concerns at the concept of a 24 hour city. They supported the key principle set out in paragraph 4.9 to protect established residential communities from negative impacts. Members preferred the concept of 'a city that's open to all' rather than a '24-hour city that's open to all'. They also questioned the extension of the night tube to every night of the week. Sara Sutton, Director of Public Protection and Licensing, observed that the Mayor had softened his tone more recently, including mentioning

balancing the needs of those making use of the evening and night time economy and residents' requirement for sleep. It was an area where Westminster could have influence.

- The Council needed to look carefully at evolving trends. Whilst there was less consumption of alcohol overall, there was more consumption of alcohol by some in terms of refuelling. One particular area of the Council's policy that potentially needed to be looked at was late night applications for off-sales.
- Bars were discussed. Councillor Floru had concerns that there might be an opportunity to improve the bar offering which could potentially promote the licensing objectives (particularly if this did not involve outside drinkers) but that this would be likely to fall foul of the Council's policies. Other Members questioned whether there was a demand for them given the trend away from alcohol led establishments and a move towards cafes/restaurants. Lesser demand was not down to the Council's licensing policy. They were also concerned about the potential impact on residents from drink led premises.
- The Committee agreed with the point that the evening and night time economy did not relate just to licensing. It was necessary to link up all those areas which are affected by the evening and night time economy. It was recommended that the evening and night time economy is a topic that is debated at full Council.

4.8 **RESOLVED:** (i) That it be recommended that the evening and night time economy be debated at full Council; and,

(ii) That it be noted that further engagement will take place with Members and stakeholders.

## 5 LICENSING COMMUNICATIONS STRATEGY

5.1 The Chairman explained that it had become apparent to her when chairing a recent review hearing that the Council needed to be more proactive in terms of responding to the likely external media communications, in many cases anticipating them. It had been clear from the Fabric case and having spoken to the Chair of the Licensing Committee at Islington Council that there was some misunderstanding externally about the matters that licensing authorities are required to consider in relation to licensing. The Chairman added that the Cabinet Member for Public Protection and Licensing, Councillor Antonia Cox, was very supportive of a new approach to the Strategy.

5.2 Ben Maloney, Senior Account Executive in Policy, Performance and Communications, introduced the report. He stated that he did not believe that there needed to be a major change from what was taking place currently. The main change was in terms of showcasing the work of the Licensing Sub-Committees and to prevent a news vacuum from forming. It was important to be able to respond to those commenting on Rah Rah Room or the Mayor and Amy Lamé on the evening and night time economy. The report set out a number of ways in which the Council's position could be communicated. The



proactive approach included building relationships with key journalists and working around the broader narrative such as the City for All agenda.

- 5.3 Mr Maloney advised that journalists were on occasion time and information poor which could lead to an article where the message was misinterpreted or a sensationalist approach taken. It was useful where possible to proactively release information in advance or respond to media stories. There were constraints, however, including in terms of commenting on pre Sub-Committee stories such as the CCTV footage which had appeared in respect of Rah Rah Room. The Council had offered to contribute to the 'Inside Out' programme on licensed premises, including Rah Rah Room but the programme makers had not wanted to include this.
- 5.4 Mr Maloney said that the Council needed to work more closely with journalists to explain the rationale in respect of the Evening and Night Time Economy. He had also included in the report a calendar of events where the Council would proactively work with the media.
- 5.5 The Committee agreed that there was a need for the Licensing Communications Strategy. The Chairman clarified that the Strategy was not just required to counter a story in a newspaper. It was also about the approach to communicating with people of influence. Councillor Gassanly supported having a strong social media presence as part of the Strategy, including in terms of defending contentious decisions.
- 5.6 **RESOLVED:** (i) That the requirement for the Strategy be supported by the Committee; and
- (ii) That the objectives and the identified opportunities for communications activity be noted.

## **6 USE OF GAMBLING RESEARCH IN FUTURE POLICY DEVELOPMENT AND TARGETED SUPPORT**

- 6.1 The item was introduced by Kerry Simpkin, Licensing Team Manager. He explained that the report provided an update on the Council's current approach in relation to gambling and what the next steps would be. The Council had partnered with Manchester City Council to commission a major piece of research which had been the first in the country to explore area based vulnerability and the risk associated with gambling. This had highlighted five key hotspot areas within the City which were identified as having a higher concentration of at risk and vulnerable people to gambling related harm. These areas are North West (Harrow Road), Paddington and Edgware Road (North), West End (North), West End (South) and Victoria and Pimlico.
- 6.2 Mr Simpkin advised that the Licensing Service was looking to use the findings of the research in a number of different ways. There was the development of the gambling policy, including the establishment of the Special Consideration Zones based on the five key hotspot areas. It was also intended to adopt a

cluster policy that requires operators to have heightened measures in place to identify and support those who may be at risk or who are problem gamblers. It was also being investigated how the Council could develop its policy in relation to the issues caused by Fixed Odds Betting Terminals ('FOBT')

- 6.3 Mr Simpkin said that consideration was being given to establishing special policies for risk areas where it was known from evidence received locally that there had been a history of issues with gambling premises, notably Harrow Road and the Prince of Wales Junction. It would then be necessary for gambling premises to demonstrate why they would want to be located in a risk area rather than expecting that there would be a presumption to grant the application.
- 6.4 Mr Simpkin stated that a further area the research evidence had contributed to was targeted care provision. He advised that the Licensing Service had been working with Gamcare and had discussions with the Council's Public Health Team and the Homeless Team in order to establish care provision for Westminster residents and those using the commissioned services. Gamcare were offering their services free of charge for local residents and to train commissioned services staff. He added that this would tie in with the Council's new rough sleeping strategy. Mr Simpkin welcomed the views of the Committee on work to date and the suggested approach.
- 6.5 The Committee supported both the work undertaken so far and the suggested approach. The Chairman described it as a very impressive piece of work which was an example of reaching out beyond what was expected for the good of local residents. The proposals were well founded. Councillor Caplan stated that gambling premises had become increasingly reliant on FOBTs and that it was perverse that those who were least able to afford it were able to lose hundreds of pounds in a matter of a few minutes. The establishments had not originally been set up to operate FOBTs. These had a massive social effect on the vulnerable. He believed that there should be a policy in place to significantly restrict FOBTs. Such machines were more applicable to casinos. Councillor Floru queried what would be the approach if there continued to be a trend towards online gambling and away from gambling at betting premises. Mr Simpkin replied that the Gambling Act 2005 was very specific that the Council is responsible for licensing premises based gambling within the borough but online gambling was overseen by the Gambling Commission nationally. There were therefore very limited options available to the Council. A response to the effects of online gambling was to provide a support network and signposting and counselling.
- 6.6 **RESOLVED:** (i) That the Committee expressed support for the work undertaken to date and the suggested approach in relation to gambling set out in the report; and,
- (ii) That the indicative timescales set out in the report be noted.

## 7. LICENSING ACT 2003 DELEGATED OFFICER DECISIONS 2016/17

7.1 The Committee received a report which provided a full review of Licensing Act 2003 new and full variation applications that were determined under officer delegated authority between 1<sup>st</sup> July 2016 and 2<sup>nd</sup> March 2017. The review examined whether there were cases of applications being determined under officer delegation against the Council's Licensing Policy in response to concerns raised by Members. The Committee noted the report with Members commenting that the contents were useful and helpful.

7.2 **RESOLVED:** That the contents of the report be noted.

## **8 LICENSING APPEALS**

8.1 The Committee noted the current position in respect of appeals which had been submitted in relation to decisions taken by the Licensing Sub-Committee. Heidi Titcombe, Manager and Principal Solicitor of the Planning, Highways and Licensing Team, Tri-Borough Shared Legal Services, provided the additional information that the appeal which had been settled in respect of Chutney Mary, 72-73 St James's Street, SW1 had resulted in the Council being awarded costs of just under £16K and these had been received. There were now three live appeals, two of these had been submitted on behalf of Sophisticats, 3-7 Brewer Street, W1 and the other was on behalf of 28<sup>th</sup> and 29<sup>th</sup> Floor, Millbank Tower, 21-24 Millbank, SW1. In respect of the Sophisticats appeals, a date for the full hearing would be set shortly. The appeal relating to 28<sup>th</sup> and 29<sup>th</sup> Floor, Millbank Tower, 21-24 Millbank, SW1 would be heard at the end of March.

8.2 **RESOLVED:** That the contents of the report be noted.

## **9 NOTTING HILL CARNIVAL**

9.1 The Committee was provided with a verbal update by Sara Sutton, Director of Public Protection and Licensing on discussions which had taken place in relation to the Notting Hill Carnival. She informed those present that there had been several assessments undertaken, particularly in relation to safety and security of the Carnival. There had been a number of incidents at the Carnival last year that had led to significant concerns from all agencies, including the Police, particularly in relation to the potential for crowd crushing. This had led to reviews, including one by The Mayor's Office for Policing and Crime ('MOPAC') Police and Crime Committee. They had submitted a report with a number of recommendations. A further review had been jointly commissioned with MOPAC which had engaged independent expertise and was focussed on crowd dynamics/movements. This looked at the wider footprint and a number of pinchpoint issues. The further review was due by the end of March. There were a number of workshops taking place in relation to this in order to look at the mitigating actions for the 2017 Carnival and future years.

9.2 Ms Sutton emphasised that there is limited time to deal with the issues in relation to the 2017 Carnival. She stated that the Strategic Partnership

Group, which was having regular meetings, brought together a number of agencies including MOPAC, WCC, RBKC, the Police and the Notting Hill Carnival Trust. The Police were carrying out a counter-terrorist review which was looking at the potential impact of hostile vehicle attacks at the Carnival. There was therefore a convergence of activity happening and the Strategic Partnership Group needed to understand how all these issues could best be addressed. Ms Sutton advised the Committee that the Partnership Group was of the view that the limited time before the Carnival meant it would not be possible to make any significant changes or recommendations from a licensing perspective. However, there were some matters within the Council's gift that would allow officers to make some changes and this would be in partnership with RBKC. It was not yet known what changes would be proposed in the crowd dynamics report. There were highways powers which could be used if it was felt appropriate to do so. Ms Sutton added that officers were totally committed to doing all they could so that they fully engaged with stakeholders and the mitigation measures that would be taken would be appropriate for safety and security of the Carnival. There would be significant changes in future years but for this year key ones would be taken based on risk assessments in the concurrent pieces of work.

- 9.3 The Chairman asked Ms Sutton whether further consideration should be given to progress on the Notting Hill discussions by the Licensing Committee on 5 July and full Council on 12 July once matters were more advanced. She replied that it was necessary to understand what the scale of change would be for this year's Carnival and how to respond to that prior to providing further information to the Licensing Committee. Ms Sutton expressed the view that there would need to be communications to full Council. She also stated that one of the recommendations was likely to be the need for an event management company to be set up by the Carnival Trust. As a partner, there was likely to be the request for funding to support that.
- 9.4 The Chairman asked whether there would be any restrictions on the community being permitted small business opportunities, such as selling food or drink, at the Carnival. Ms Sutton replied that the celebratory nature of the Carnival was understood. There was however evidence that in some areas there was serious risk of crushing from crowd movement. Any recommendations to the Sub-Committee such as in relation to any temporary event notices applied for were likely to depend on the location / pinchpoints.
- 9.5 **RESOLVED:** That an updated report on the Notting Hill Carnival be provided for the next meeting of the Committee on 5 July 2017.

## **10 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT**

- 10.1 In response to the Chairman consulting Members on potential matters for discussion at the Licensing Committee, Councillor Acton had requested that shisha and delivery vehicles were raised as topics.
- 10.2 Members of the Committee received a briefing note on shisha premises prior to the meeting. The briefing note had referred to Westminster's shisha

strategy presenting licensing as a way forward to ensure effective management of certain shisha premises where the issues of public safety and nuisance could not be adequately managed through the various pieces of legislation currently applied. The briefing note also drew the Committee's attention to the House of Lords Licensing Act 2003 Select Committee examining whether health should be included as a fifth licensing objective which could potentially have an impact on the Council's approach to shisha premises based on the impact of smoking shisha on health.

- 10.3 Councillor Acton stated that Westminster's Shisha Symposium had been very successful. It had been agreed there that the Council would work with other local authorities, including Brent and Birmingham. One aspect discussed was to lobby Central Government to introduce licensing powers in relation to shisha premises. She asked whether the Committee considered this to be appropriate.
- 10.4 The majority of Members of the Committee agreed with this approach. Councillor Caplan stated that his answer would be yes but that lobbying for a change in licensing legislation required careful consideration in terms of choosing the appropriate legislative route. He was doubtful that any changes would be made under the current licensing regime. Councillor Acton in response to Councillor Caplan's points commented that the Department of Health had been represented at the Symposium and had suggested using devolution powers rather than lobbying Central Government so this way forward was being looked at.
- 10.5 Councillor Gassanly made the point that whilst there were issues at certain shisha premises, he believed it was important that the Council did not cross a line in terms of lecturing to people about the personal choices in their lives. He expressed the view that the Council's only focus in this area should be on reducing the impact of public nuisance.
- 10.6 Councillors Burbridge and Hyams expressed concerns regarding the health impact of shisha. Councillor Hyams added that the key aspect was to get the health message across. Shisha was not opposed on cultural grounds.
- 10.7 Councillor Acton also requested that at every Licensing Sub-Committee meeting where an applicant sought to deliver off-sales, hot food or hot drink, Members of the Sub-Committee ask the applicant to consider providing the deliveries via electric vehicles, bicycle or on foot. She believed it would be of value to have something in writing which officers were able to show to applicants that this is the requirement in Westminster. Mr Simpkin informed those present that there had been a meeting some months ago between Councillor Acton, Councillor Aiken (Chairman of Licensing Committee at that time) and licensing officers regarding nuisance to residents from delivery companies. There was a plan to come up with some policy options and have a consultation exercise on these later this year. There were some limits to what could be done. It was not possible to enforce that the delivery companies use the modes of transport proposed.

10.8 Councillor Scarborough made the point that requiring the applicants to use their best endeavours to persuade the delivery companies to use the proposed modes of transport was not good enough (applicants had advised the Sub-Committee that employees of the delivery companies that were either being used by them or would be used by them were third parties and they could not be held responsible for the modes of transport used by the third parties). Councillor Caplan commented that it would be ideal if all the delivery companies used the proposed modes of transport. However, there were many companies who had not made applications who could deliver via any mode of transport that they wished.

## **11 FUTURE LICENSING COMMITTEE MEETING DATES**

11.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 5 July 2017, Wednesday 29 November 2017 and Wednesday 21 March 2018. All meetings are scheduled for 10.00am.

## **12 CLOSE OF MEETING**

12.1 The Meeting ended at 12.10pm

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_



City of Westminster

## Licensing Committee Report

|                           |   |
|---------------------------|---|
| <b>Meeting:</b>           | <i>Licensing Committee</i>  |
| <b>Date:</b>              | <i>Wednesday 5<sup>th</sup> July 2017</i>   |
| <b>Classification:</b>    | <i>For General Release</i>  |
| <b>Title:</b>             | <i>Developing an approach to tackle the growing impact on local residents from food and drink delivery services</i> |
| <b>Wards Affected:</b>    | <i>All</i>  |
| <b>Financial Summary:</b> | <i>N/A</i>  |
| <b>Report of:</b>         | <i>Director for Public Protection and Licensing</i>   |

### **1. Executive Summary**

- 1.1 Concern has been growing over the last year in relation to the impact of nuisance caused by food and drink delivery services, on local residents within Westminster. The Licensing Service, in conjunction with colleagues in Residential Services, has considered powers and options available to tackle the issues of nuisance caused by these deliveries from licensed premises.
- 1.2 There are limitations to the legislative controls available within the Licensing Act 2003 and the conditions that can be applied to address issues of public nuisance, associated with deliveries of non-alcoholic drinks and food.
- 1.3 Conditions can only be applied to licensable activities, that is, the sale of alcohol, supply of alcohol by a club, provision of regulated entertainment or the provision of late night refreshment between 23:00 and 05:00 hours.
- 1.4 Often nuisance is associated with food and drink deliveries during the course of the day or evening when alcohol is not included in the delivery, and before late night refreshment conditions apply after 23:00 hours.
- 1.5 However, the Licensing Service is committed to working with colleagues across the council, other stakeholders and businesses to identify and implement effective measures to reduce or eliminate this growing nuisance.
- 1.6 The Licensing Service has identified some options to explore, having considered significant areas of concern affecting residents in recent cases.

Key to any approach is early engagement with the licensee and delivery service provider, encouraging them to promote corporate social responsibility. In addition, we aim to develop a set of standards that licensed operators and delivery service providers should adhere to.

- 1.7 This report sets out the key issues of concern and the proposed stepped approach to attempting to tackle them. Whilst the scope to which licensing powers can be implemented is limited, it is hoped that a joint approach with other key services, both internally and externally, will reduce the impact of the issues associated with delivery services on Westminster's residents.

## **2. Recommendation**

- 2.1 That members of the Committee consider the proposed approach set out in paragraphs 8.1 to 8.5 below and provide their views on that approach.

## **3. Background**

- 3.1 The delivery of hot food is not a new concept, and has been developing for a number of years. Prior to the development of recent on line technology and apps, the most common hot food delivery service was via the telephone and delivery was provided by pizza companies via scooters.
- 3.2 With the advent of new technology we have seen development of a labour market characterised by short-term contracts or freelance jobs: the 'gig economy'. In the gig economy, instead of a regular wage, workers get paid for the "gigs" they do, such as a food delivery to private homes. The companies that operate within the gig economy provide an opportunity for individuals to be self-employed and work freelance. The gig economy is technology driven and without the development of smart phones, apps and mobile optimized websites, some of these companies' services would not be possible.
- 3.3 We have seen in the last few years a significant increase in the use of third party delivery services. These services establish an agreement with a food and drink provider, such as a restaurant, to provide a portal for both ordering of food and a delivery service. The most prominent food and drink delivery service provider within Westminster is Deliveroo. However, Uber Eats delivery service is also growing within London.
- 3.4 In addition to the delivery of hot food and drink, there has also been an increase in licensed premises seeking off-sales of alcohol via phone or internet orders, for delivery. Restaurants and fast food operators are also including alcohol, in addition to the food that they produce for delivery. There are also operators who seek to primarily sell and deliver alcohol. Delivery of alcohol is not new and supermarkets and specialist alcohol suppliers have been operating delivery services for years.



- 3.5 There are two particular types of retail trade, which appear to be growing in the United Kingdom. Firstly, there are independent convenience stores that already hold a licence that permits off-sales of alcohol. These operations are now looking to provide delivery of alcohol services. In some circumstances, this may mean that the licensee applies to vary their licence to extend the hours for the sale of alcohol, but limit this to off-sales via delivery services only. The delivery service may or may not be combined with the delivery of other non-licensable goods from the store.
- 3.6 The second retail trade where alcohol provision seems to be growing is from dedicated delivery services that have been established around the country which do not offer public access to their premises and operate only as a phone and internet delivery service.
- 3.7 The delivery of alcohol provides some additional challenges in terms of the child protection licensing objective. It is expected that the licensee and the delivery rider/driver is ultimately responsible for ensuring that any alcohol is not purchased and delivered to anyone under 18 years of age.

#### **4. Growing impact on local residents**

- 4.1 There has been a growing issue surrounding nuisance associated with food and drink delivery riders/drivers from premises within Westminster. Deliveries from premises often relate to premises that offer hot food deliveries, some of which are licensed. These operators often use either their own delivery staff or a third party food delivery services such as Deliveroo, Uber Eats, etc.
- 4.2. Operators that use their own delivery service have not specifically been identified as causing nuisance issues to residents. However, there has been some concern relating to the number of moped vehicles parked during the day in resident parking bays or on the pavement. The main concerns are associated with third party delivery services which have been identified by residents via the cooperate branding that the drivers wear/carry or that is adorned on their vehicles.
- 4.3 Complaints concerning the noise from delivery riders/drivers are one of the main points that residents raise with the Council. There is a tendency for delivery riders/drivers to congregate in a location which can often be near to residential properties. The noise generated by the delivery riders/drivers talking on their phones, talking to one another and playing music seems to be the predominant issues. The scooters and mopeds can also cause noise disturbances to residents.
- 4.4 It has been identified that third party delivery operators do designate locations within the City where riders/drivers can await a gig. It is possible that these designated locations are the main areas where noise disturbances are created.

- 4.5 The noise from riders/drivers cannot be classified as a statutory nuisance due to the limited time in which the noise or emissions occurs. However, the noises that are being reported to the council occur at unsociable hours of the day when the ambient noise is reduced and residents can have their sleep interrupted or the peaceful enjoyment of their homes impaired. Therefore this noise nuisance can cause considerable impacts on local residents.
- 4.6 One of the other effects of riders/drivers congregating in an area is the issue of litter and also urination in the street. Some complaints to the Council have identified that riders/drivers in an area often leave litter from food and drink that is consumed at the location. Urination around the areas of gathering riders/drivers is also common. Some residents have also complained of riders/drivers using their gardens or parts of their property for urination which causes particular concern to those residents.
- 4.7 When residents have confronted riders/drivers over noise, litter and general behaviour they can be abusive to residents or generally dismissive of their concerns.
- 4.8 Obstruction cause by scooters and mopeds parking on the highway has also been raised by residents. However, there are exemptions and specific allowances for certain vehicles which permit these vehicles to be parked there for a time before parking enforcement notices can be issued. The understanding of the laws and requirements surrounding parking can be complicated and, as a result, residents may believe that the vehicles are parked in contravention when in reality they are parked in accordance with these exemptions.

## **5. Challenges**

- 5.1 The issues of nuisance from third party delivery riders/drivers appear to be growing problem for residents in some areas. There is a need to try and reduce or eliminate the issues that some residents are facing. However, there are some specific challenges to tackling these issues. These challenges are:
- 5.2.1 In some cases, the delivery services causing disturbances are delivering on behalf of premises which are not licensed and therefore licensing controls will not be relevant.
- 5.2.2 Noise and other issues from riders/drivers can occur when they are waiting for a gig and are not associated with specific licensed premises at that time.

- 5.2.3 Identification of the rider/driver causing the noise or other anti-social behaviour is not always possible.
  - 5.2.4 Riders/drivers for third party delivery services are not employees of the delivery service or licensed premises so controlling their behaviour may present difficulties.
  - 5.2.5 Unwillingness from the third party delivery service providers and licensed premises to engage with the Council or other partners to address these issues.
- 5.3 The issues surrounding third party delivery services and nuisance seem to be specific to London at the moment. The Licensing Service has been in contact with colleagues from Manchester, Leeds, Brighton & Hove and Birmingham City Council's. Although these authorities have a similar growth in the gig economy associated with food and alcohol delivery services, they have not received specific complaints from local residents concerning nuisance from these riders/drivers.

## **6. Environmental concerns from delivery vehicles**

- 6.1 The environmental impact from these delivery vehicles is something that cannot be controlled via licensing. The licensing of premises is strictly limited to the promoting the four licensing objectives, which at the present time does not include health or protecting the environment.
- 6.2 There are views that delivery services should be provided through more environmentally friendly vehicles. The Council can promote its views that licensed premises should look to use delivery services that use low or non-polluting vehicles for delivering from premises. The Council can emphasise the corporate social responsibility for businesses within Westminster by encouraging the businesses to develop their own initiatives to assess and take responsibility for the companies' effects on environmental and social wellbeing. In addition to operators committing to using low or no emission vehicles, they can also set out further commitments to using renewable energy, recycling packaging and oil, using less water and using biodegradable packaging. For example, operators can commit to the use of electric vehicles for deliveries to and from premises. Some takeaway delivery services do use cyclists to deliver food but the vast majority are via delivery scooters.

## **7. Use of Licensing to potentially reduce the impact to resident**

- 7.1 The Licensing Act 2003 (the Act) governs the licensing of these premises. The Act does require that the operation of any licensed premises must

promote to the four licensing objectives. One of these licensing objectives is the prevention of public nuisance.

- 7.2 The Licensing Authority has placed conditions on licensed premises relating to deliveries following representations from local residents and/or responsible authorities. However, for late night refreshment the conditions imposed on deliveries would only apply after 11pm and before 5am, when that activity is licensable. If the premises provide food takeaway delivery services prior to 11pm then the Licensing Authority cannot attach conditions relating to that service. If the premises provide a delivery service for alcohol then any delivery service can be conditioned to promote the licensing objectives.
- 7.3 Although there are challenges to addressing the issues through licensing alone, there are options through education, engagement, collaboration and, where necessary, regulatory control. By working with licensed premises and the third party delivery providers some of the issues can be considered and addressed.
- 7.4 Licensed premises that offer a delivery service should be encouraged to support the Council in reducing the impact on local residents from inconsiderate and irresponsible delivery riders/drivers. Seeking the support of major operators will enable engagement with the third party delivery providers to address specific issues. For example, an agreement could be reached where waiting areas for gigs are assigned and geo-fenced areas established via apps to prevent jobs being received in areas that are considered sensitive.
- 7.5 The Council may also consider developing with licensed operators and third party delivery services a voluntary code of practice for the delivery service sector. That code of practice could cover the behaviour of riders/drivers to prevent noise nuisance, prevent illegal parking, reduce litter and prevent the sale of alcohol to under 18's. The code could include the ability to identify riders/drivers through unique identification numbers or via the use of any mobile phone app. The code would encourage third party delivery operators to implement policies and ensure that the code is adhered to by the riders/drivers who sign up with the organisation. The policy would also indicate what action would be taken against riders/drivers who fail to comply with the code. There may also be the opportunity to include an environmental impact element in the code relating to the use of low or no emission vehicles. Any delivery service that agrees to operate to this code would then be considered as an approved third party delivery service provider by the Council. This code of practice could be adopted as part of the Council's Licensing Policy for licensed premises that offer delivery services.

## **8. Proposed approach**

- 8.1 In developing its approach to reducing the impact of delivery services on local residents the Licensing Service would implement a stepped approach to working to reduce the impact of delivery services on local residents.
- 8.2 Firstly the Licensing Service along with other relevant internal and external stakeholders will identify and analyse the issues associated with food and drink delivery services across the city. This will specifically look at the areas where the issues seem to be the most severe. This may include engagement with local residents in key areas to further develop our understanding of the key issues.
- 8.3 Once the exact level and locations of the issues are identified the service will engage with licensed premises that provide a delivery service and third party delivery service providers. This will enable a discussion on the impacts that have been identified and what options could be implemented by the licensed operators, delivery services and the council to reduce those impacts. This could involve small changes in operation that would achieve rapid results, such as relocating staging areas for riders/drivers from residential areas, providing further information to riders/drivers on how they should behave and where they are and are not permitted to park.
- 8.4 This approach may, if successful lead to a set of agreed principles that could then be drawn up into a specific charter or code of practice for the offer of delivery services within the City. The fundamental principles of any charter or code would be:
- Residents are not caused nuisance or disturbed by any delivery service providers,
  - All delivery services are provided in a courteous, safe and respectful manner, and
  - All deliveries are provided in accordance with the law on road use, parking and licensing.
- 8.5 If there is a lack of engagement in this area and/or there is limited effect in reducing any local impact then the council may consider more enforcement led options such as specific conditions on licences restricted services and the development of specific licensing policies to address public nuisance from delivery services.

## **9. Financial Implications**

9.1 There are no financial implications as a result of this report.

## **10. Legal Implications**

10.1 There are no legal implications as a result of this report.

## **11. Staffing Implications**

11.1 There are no staffing implications as a result of this report. All of the work in this area is being undertaken using the current resources within the Licensing Team.

## **12. Reason for Decision**

12.1 The proposed approach set out in paragraph 8 above will enable the Council to raise awareness associated with the impact of delivery services to residents, where those impacts are more prominent within the City and to attempt to establish an agreed code of practice to try and tackle those issues.

12.2 The proposed approach will be specific to licensed premises but may have a greater impact on the reduction of the impact on residents from non-licensed and licensed premises if the main operators engage and agree to adopt any code of practice.

If you have any queries about this report or wish to inspect one of the background papers please contact Mr Kerry Simpkin on 020 7641 1849 or via email [ksimpkin@westminster.gov.uk](mailto:ksimpkin@westminster.gov.uk).

## **Appendices**

None

## **Background Papers**

Licensing Act 2003  
Council's Licensing Policy



# Briefing Note

**To:** Licensing Committee

**From:** Director, Public Protection & Licensing

**Date:** 5<sup>th</sup> July 2017

**Re:** Business Information & Licensing Service Performance Review 2017

**Office Location:** Portland House, 22<sup>nd</sup> Floor

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## 1. Introduction

- 1.1 The Licensing Service has worked with the Council's Business Intelligence Team to establish a performance dashboard. The purpose of this dashboard is to monitor and report on performance and key information that will enable the Service to better understand trends in licensing activity and application numbers. Alongside development of the dashboard the Service has also implemented new systems of work and IT solutions to manage workflow of applications.
- 1.2 Key Performance Indicators (KPIs) have been developed over the last year to ensure efficient progress of all cases, effective case management and provision of a high quality service. These KPIs represent milestones across the application process, and include the receipt, validation, processing and acknowledgement of applications, granting of licences and closing open Temporary Event Notice application records. The list of KPIs is attached at Appendix 1 along with the Service's performance against those targets.

## 2. Executive Summary

- 2.1 The figures detailed in this report are for Members information only.
- 2.2 Statistics show that there has been a steady increase in the number of applications received over the last three financial years. The first quarter of 2017 in comparison to 2015 and 2016 shows that on average there has been a 10% increase in applications received each month, which presents a key trend when anticipating numbers of applications in the future.
- 2.3 Although there has been an increase in the volume of applications received, the service has continued improving the time that it takes to validate and acknowledge applications. The target to acknowledge applications is within 2 working days. This target has improved from 76% in 2015/16 reaching 97% in June 2017.
- 2.4 The number of licences issued per month has remained reasonably steady, however Members will note that over the 2017/18 period so far the average percentages for the different target deadline set are well within the 90s increasing to 100% in June 2017.
- 2.5 Although the closing of Temporary Event Notice records within the Council's database does not have a direct impact on our customers it is a key requirement to enable the Licensing Authority to keep a track on the number of Temporary Event Notices that have been submitted for each premises or the notice giver. The Licensing Service has implemented a performance target to enable them to monitor the closing of these records. There has been steady progress in improving the time it takes to close a Temporary Event Notice record on the Council's database.

- 2.6 The number of Temporary Event Notice applications received throughout the year is usually consistent with a spike in September, October and November for Christmas and New Year's Eve extensions. However, in May 2017 the Service received 77 additional applications when compared to the previous year, which was unusual considering the trends. This unusual peak caused a slight decrease in the number of Temporary Event Notices that were closed down in May 2017. By documenting peaks in the trends throughout the year it highlights areas where improvement is needed and gives the Service the opportunity to prepare for the future to ensure that key targets are met.
- 2.7 The statistics for June 2017 show that 97% of the Temporary Event Notices were closed down within 7 days following the last date for objection. This is the highest percentage reached since recording this target and the Service strive to continue to improve.
- 2.8 Overall there have been improvements in the way that the Service operates. The ability of the Service to consider and take applications through to determination as an 'end to end' process has prevented a number of time consuming hand-offs, and significantly reduced the potential for errors.
- 2.9 The aim for the Service is to continue to improve against its own performance indicators whilst working on key service plan priorities and other Council priorities.

### **3. Key Successes**

- 3.1 Since the introduction of the business information dashboard the Licensing Service has changed the way it operates. Greater emphasis has been given to the early assessment of applications to establish whether they are likely to require determination by a Licensing Sub-Committee, either due to being outside of policy, or, being a premises/operation against which residents will submit representation.

More focus has been given to managing the interaction between applicants, residents and responsible authorities at the initial stages of the application process. This has resulted in a number of applications (excluding those against the Council's Licensing Policy) being amended or conditions being agreed, enabling them to be determined by officers. Customers have benefited from this approach.

- 3.2 The Licensing service is now also making representations to applications as the Licensing Authority. This is enabling the Service to ensure that applicants focus on the Council's policy and specifically meet the requirements of those policies. This has had the effect of improving the applications that have been submitted and the operating schedule which forms part of that form. Some applicants, once receiving the Licensing Authority representation, have made amendments to their application whilst in the initial period of the consultation period to reduce the hours or activity which was outside of policy so that they would meet the policy requirements. Others applications that were completely outside of policy have in some cases withdrawn their applications because of the representations from the Licensing Authority.
- 3.3 This intervention has reduced the number of applications brought before Licensing Sub-Committee for determination. It should be noted that the Licensing Service receives over 6000 applications a year, of which approximately 160 applications require determination at Licensing Sub-Committee
- 3.4 Through the Business Information dashboard we have developed a model to enable the Licensing Service to manage the peaks in licence applications each year. The Service's busiest period is between September and December, although there are smaller peaks in application numbers earlier in the year. November is the busiest month of the year during which in excess of 1200 applications can be received. The majority of these applications are Temporary Event Notices for Christmas and the New Year.



3.5 The introduction of KPIs has seen a vast improvement in the time it takes for the Licensing Service to acknowledge, determine licence applications; and issue licences. A full breakdown of the team performance against these KPIs is available in Appendix 1.

#### **4. Future Development of Business Information**

4.1 The Licensing Service is continuing to develop its business information to enable further analysis of specific types of applications, where they are being applied for and hours of operation. We will also be looking to develop other trends in specific types of business operations within the City, e.g. a trend of an increase in restaurants with bars, and trends in conditions applied.

4.2 The use of business information and technology will continue to improve our understanding of our own performance, and will enable a better understanding of how licensed premises are operating within the City. Better analysis and understanding of trends will be key to future policy development within licensing, and also in supporting the Council's risk based approach to compliance and enforcement.

Performance Indicators for the Licensing Service

Acknowledging applications

Applications processed and acknowledged within 2 working days of receipt

| Financial Year | Total number of applications received               | Percentage of applications that were processed within target | Number of applications that were processed within target |
|----------------|---|--|--|
| 2015/16        | 6410  | 76.43%   | 4935   |
| 2016/17        | 6801  | 84.88%   | 5441   |
| 2017/18        | 1607 (up 10% compared to the same period last year) | 90.29%   | 1446   |

Note from the graph below that the number of applications that were processed within target in the last two months has now increased to 100%. This is mainly linked to the implementation of online forms as part of the digital transformation project.

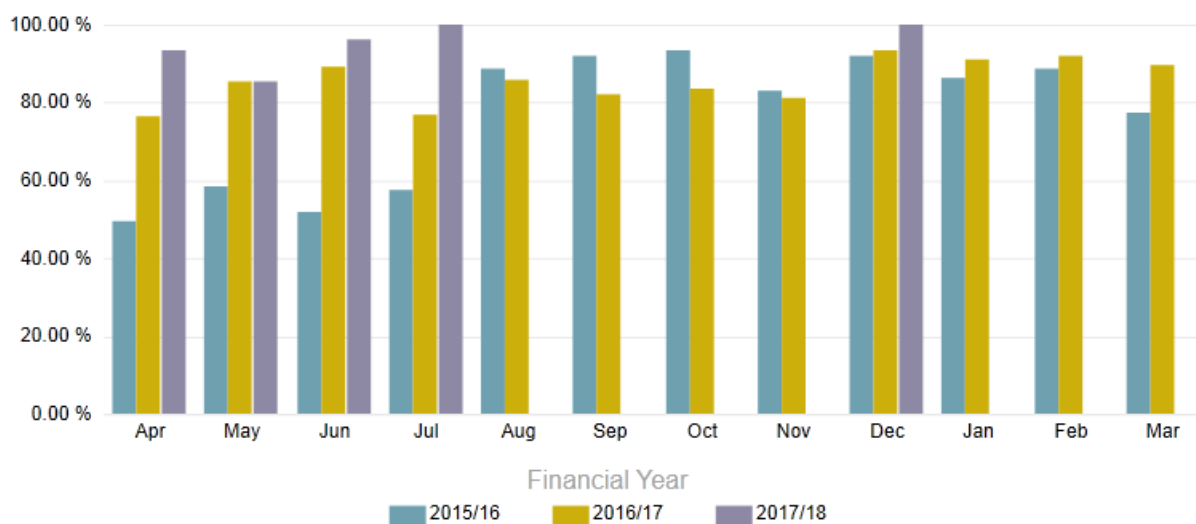


Figure 1 – Total number of applications received by month – NB: Reference to 100% in December 2017 is a data error.

Issuing licence

Issuing unopposed major applications (applications with between 21 and 28 day public consultation period) within 28 days from determination.

| Financial Year | Total number of licences issued | Percentage of licences issued that met target | Number of licences issued that met target |
|----------------|---------------------------------|---|---|
| 2015/16        | 553                             | 21.34%  | 116                                       |
| 2016/17        | 613                             | 22.19%  | 135                                       |
| 2017/18        | 167                             | 66.47%  | 110                                       |

*Note from the graph below that over the past three months there has been a substantial increase in the percentage of the number of licences issued that met target with 100% for both June and July 2017.*

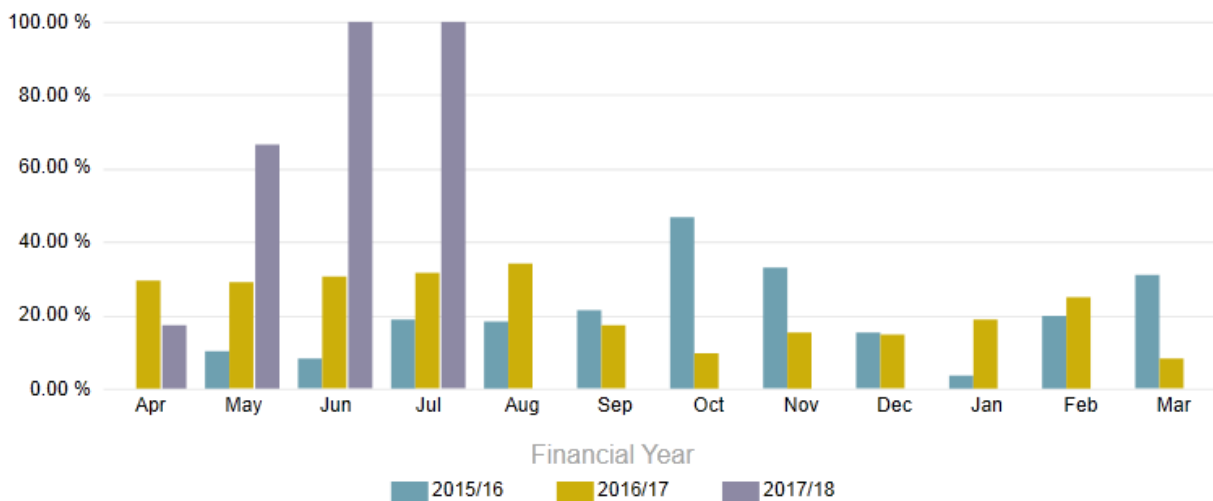


Figure 2 – Performance indicator 2 bar graph

Issuing unopposed minor applications (applications with a maximum of 14 day consultation period) within 14 days of determination.

| Financial Year | Total number of licences issued | Percentage of licences issued that met target | Number of licences issued that met target |
|----------------|---------------------------------|---|---|
| 2015/16        | 1366                            | 22.25%  | 307                                       |
| 2016/17        | 1633                            | 40.23%  | 653                                       |
| 2017/18        | 397                             | 43.83%  | 175                                       |
|                |                                 |   |   |
|                |                                 |   |   |

Members will note from the figures above and the graph below that there has been an increase in the percentage for the number of licences issued that met target especially in June and July with the percentage at 100%.

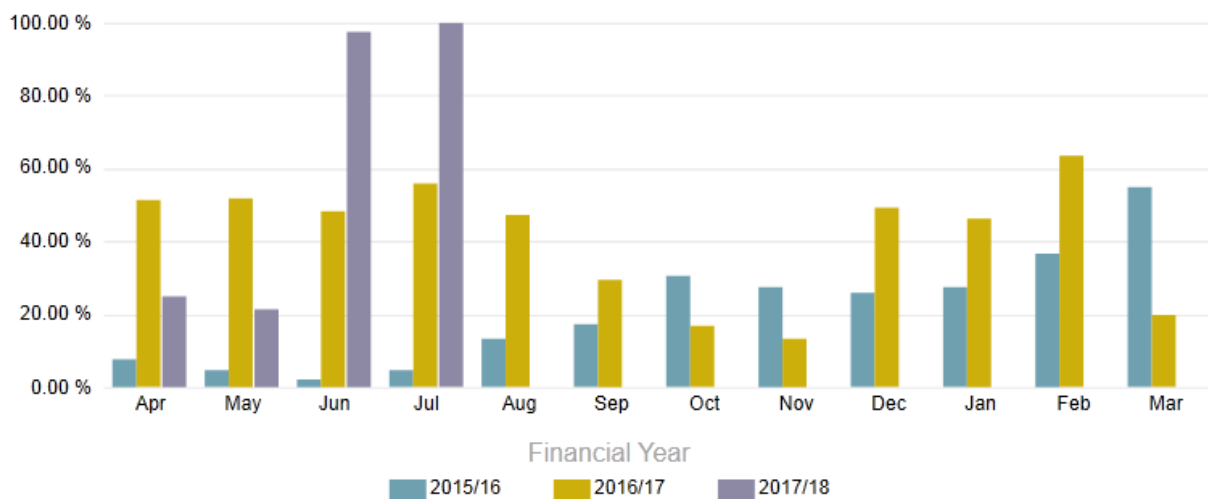


Figure 3 – Performance indicator 3 bar graph

Issuing administrative changes to licences within 7 days from determination.

| Financial Year | Total number of licences issued | Percentage of licences issued that met target | Number of licences issued that met target |
|----------------|---------------------------------|---|---|
| 2015/16        | 709                             | 68.27%  | 482                                       |
| 2016/17        | 688                             | 76.89%  | 530                                       |
| 2017/18        | 118                             | 96.61%  | 114                                       |
|                |                                 |   |   |

Note from the graph below that for the last 3 months the percentage of licences issued that met target has consistently been over 95% with April and June meeting 100% and the Licensing Service are confident that this standard will continue to be maintained.

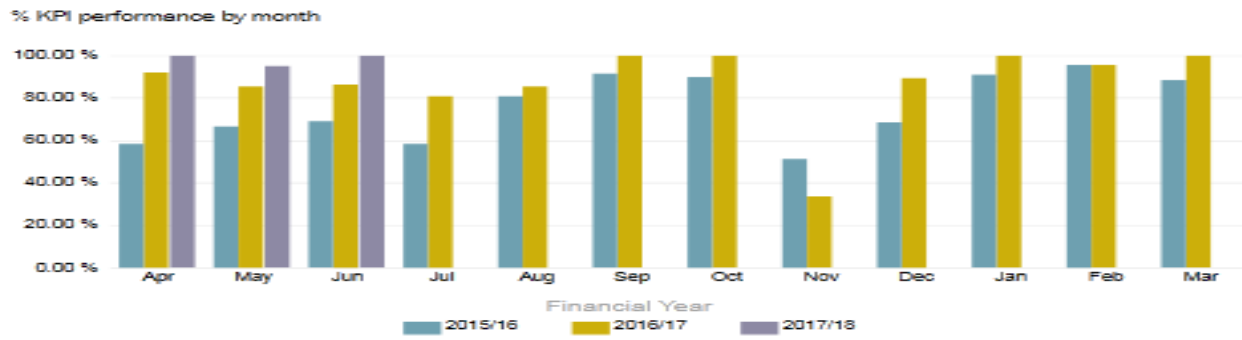


Figure 4 – Performance indicator 4 bar graph

Issuing licences within 28 days following the publication of the Licensing Sub-Committee decision.

| Financial Year | Total number of licences issued | Percentage of licences issued that met target | Number of licences issued that met target |
|----------------|---------------------------------|---|---|
| 2015/16        | 58                              | 48.28%  | 28  |
| 2016/17        | 139                             | 67.63%  | 95  |
| 2017/18        | 36                              | 91.67%  | 33  |

Note from the graph below that for the last two months the percentage of licences issued that met target has been at 100% and the Licensing Service are confident that this standard will continue to be maintained.

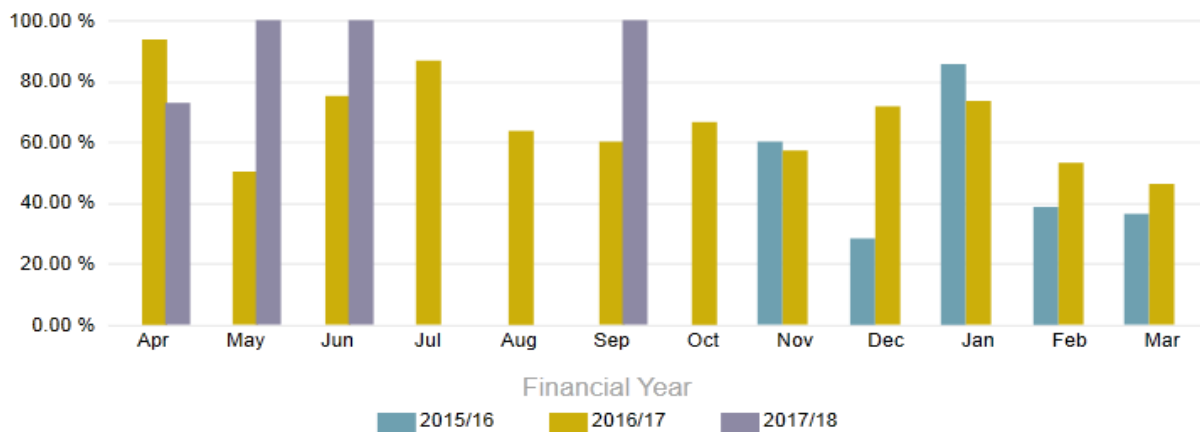


Figure 5 – Performance indicator 5 bar graph

## Temporary Event Notices

The Council receives on average 2974 Temporary Event Notices per calendar year. The notices require the Council to acknowledge the notice and then consider whether they will impact one or more of the Licensing Objectives under the Licensing Act 2003. Figure 6 below shows the number of Temporary Event Notices received per calendar month for 2015, 2016 and up to the 19<sup>th</sup> June 2017. There has been a comparable trend in Temporary Event Notices year on year, however due to an increase in notices over the last 2 months it is expected that the Council will receive in excess of 3200 notices in 2017.

|  | 2015 | 2016 | 2017*   |
|--|------|------|---|
| <b>Temporary Event Notice Received</b> | 3128 | 3029 | 1494 (up 23% compared to the same period last year) |

\* Up until the 19<sup>th</sup> June 2017

There is a Temporary Event Notices peak between September and November every year due to the holiday period. This 3 month period represents nearly 2 thirds of the total number of Temporary Event Notices received by the Council per year. This can clearly be seen in Figure 6 below.

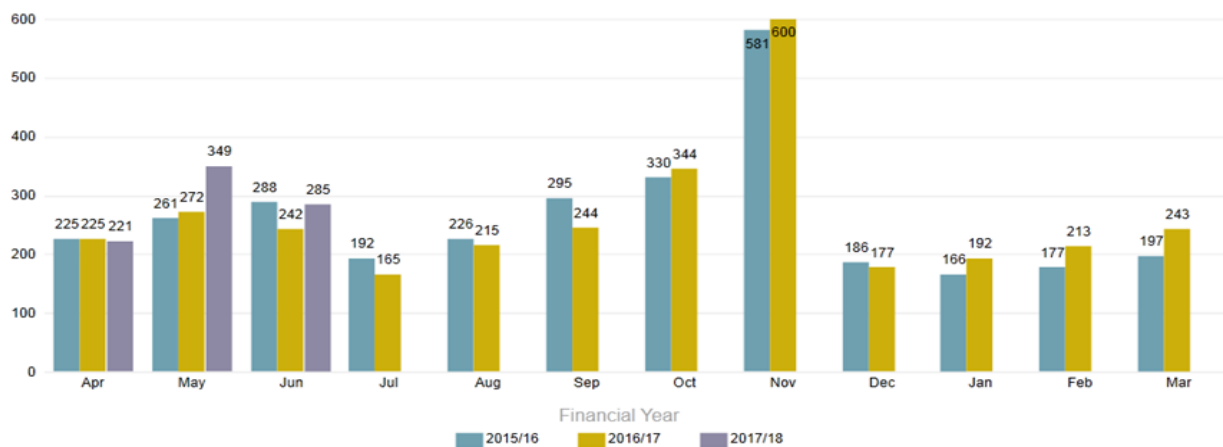


Figure 6 – Temporary Event Notices received per month

Closing Temporary Event Notices Records

Closing an open Temporary Event Notice record within 7 days following the last date for objection notices.

| Financial Year | Total Temporary Event Notices | Percentage of Temporary Event Notice records closed within target | Number of Temporary Event Notices closed within target |
|----------------|-------------------------------|---|--|
| 2015/16        | 2953                          | 37.72%  | 1122   |
| 2016/17        | 2994                          | 43.72%  | 1317   |
| 2017/18        | 804                           | 69.78%  | 563  |

Note from the graph below that since the appointment of an Apprentice Licensing Officer in June 2017 whose role includes closing down TENS the percentage of TENS closed within target for June 2017 is 97% and it is envisaged that this will continue to increase with a dedicated officer whilst helping to develop the Licensing Apprentice.

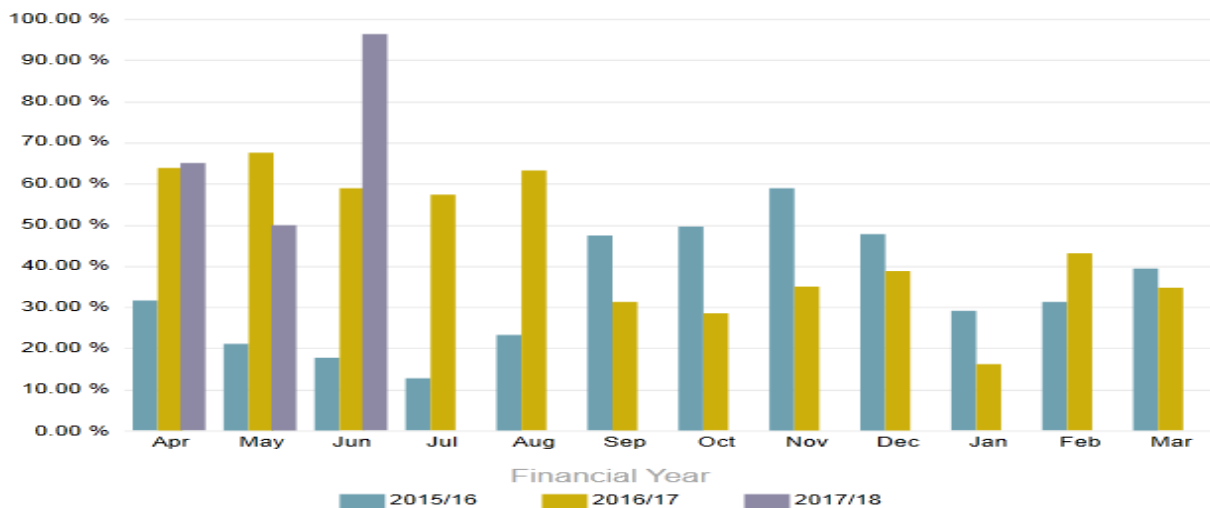


Figure 7 – Performance indicator 6 bar graph





City of Westminster

## Licensing Committee Report

|                           |   |
|---------------------------|---|
| <b>Meeting:</b>           | <i>Licensing Committee</i>                                |
| <b>Date:</b>              | <i>Wednesday 5<sup>th</sup> July 2017</i>                 |
| <b>Classification:</b>    | <i>For General Release</i>                                |
| <b>Title:</b>             | <i>Licensing Act 2003 – Model Conditions</i>              |
| <b>Wards Affected:</b>    | <i>All</i>  |
| <b>Financial Summary:</b> | <i>N/A</i>  |
| <b>Report of:</b>         | <i>Director of Policy, Performance and Communications</i> |

### **1. Executive Summary**

- 1.1 This report advises of the intention to review Westminster's Basket of Model Conditions. These conditions may be used by applicants for a premises licence under the Licensing Act 2003 when completing their Operating Schedule for the premises, by other parties to a hearing, and for the use of Licensing Sub-Committees when considering applications for the grant, variation, or review of premises licenses.
- 1.2 Any revisions to the Model Conditions will take into account the views of statutory authorities and other interested stakeholders.

### **2. Recommendations**

- 2.1 The Committee is recommended to note the intention to review the Westminster City Council Model Conditions for Premises under the Licensing Act 2003, and comment as necessary.

### **3. Background**

- 3.1 Under the Licensing Act 2003, (the 2003 Act), the City Council has responsibility for the licensing of premises for the sale by retail of alcohol, the supply of alcohol in clubs, regulated entertainment, and the provision of late night refreshment.
- 3.2 The City Council must carry out its functions under the Act with a view to promoting the licensing objectives. The licensing objectives are: the

prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.

- 3.3 Prior to the introduction of the 2003 Act the City Council had responsibility for licensing venues for public entertainment, which included night clubs, theatres, cinemas, and pubs offering karaoke, and for licensing night cafes, which included take-aways open between 00.00 and 05.00.
- 3.4 In order to maintain standards of public safety, limit the environmental impact of the operation of the venues, minimise nuisance, and reduce crime and disorder associated with the premises, the City Council adopted a nationally approved series of standard conditions, The Rules of Management for Places of Entertainment, and Standard Conditions relating to Night Cafes, which applied to all licences granted for public entertainment venues or Night Cafes. These standard conditions were then supplemented by Special Conditions which would be attached to individual licences as necessary, to address concerns relating to individual venues.
- 3.5 Since the Licensing Act 2003 came into effect in November 2005, the City Council, when granting a premises licence, may only attach conditions to the licence which are consistent with the operating schedule which accompanies the application, or, where a relevant representation has been made, to the extent it considers it appropriate for the promotion of the licensing objectives.
- 3.6 In determining an application for the Review of a premises licence the City Council, having regard to the application and any relevant representations, may modify licence conditions as it considers appropriate for the promotion of the licensing objectives.
- 3.7 In carrying out its licensing functions the City Council must also have regard to Guidance issued under the Act by the Secretary of State. Current Guidance provides pools of conditions (although not an exhaustive list), which relate to the four licensing objectives and which could be used where necessary and appropriate to the particular circumstances of an individual licensed premises. The Guidance states however, that it is important that conditions should not be applied universally and treated as standard conditions irrespective of circumstances. Under no circumstances should licensing authorities regard the pools of conditions as standard conditions to be automatically imposed in all cases.

#### **4. Detail**

- 4.1 Whilst the pools of conditions set out in the Guidance issued by the Secretary of State describe in general terms those circumstances when it may be valuable to impose conditions, and describes concerns which may be addressed, it does not include drafts of specific conditions in a form suitable to be imposed on a premises licence.

- 4.2 The City Council, licence holders, the police, and other Responsible authorities have overlapping responsibilities in promoting the licensing objectives. Guidance urges partnership working to promote the licensing objectives.
- 4.3 Conditions which are necessary to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and be translated to form part of the operating schedule for the premises. It would assist prospective licence holders if they had access to Model Conditions which they may consider would promote the licensing objectives in the circumstances of their application.
- 4.4 Once an application has been made, the police, Environmental Health service and other responsible authorities are encouraged to engage with the applicant if they are considering making a representation to the application. It would assist all parties and promote a consistent approach between agencies if reference could be made to an agreed basket of Model Conditions.
- 4.5 At a hearing to determine an application for the grant, variation or review of a licence, it would assist both the licensing sub-committee and parties to the hearing if reference could be made to agreed Model Conditions.
- 4.6 At its meeting on 9 July 2008 the Licensing sub-committee agreed that a basket of Model Conditions be produced, in conjunction with the police and other relevant responsible authorities, which set out the preferred wording of conditions which may be attached to licenses when it was appropriate to do so.
- 4.7 The basket of Model Conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence. The basket of Model Conditions would not restrict any applicant, responsible authority, or interested party from proposing any alternative conditions, nor would it restrict a licensing sub-committee from imposing any reasonable condition on a licence with a view to promoting the licensing objectives.
- 4.8 A final draft of the first basket of Model Conditions was discussed with trade representatives at a meeting of the Entertainment Forum on 7 October 2008. The concept of model conditions was welcomed by the group, and discussions with trade representatives have continued.
- 4.9 The first basket of Model Conditions was published in October 2008, and has been made available on the City Council web site. The Model Conditions are subject to constant review and updated as necessary, with appropriate dating and version control.
- 4.10 The current basket of Model Conditions, dated August 2015 is attached at Appendix A. This latest version of the Model Conditions includes an index for easy reference.

- 4.11 This review of the Model conditions looks to take account of changing market trends and issues which may be identified through licensing hearings, or by parties to hearings. These include the development of 3<sup>rd</sup> party delivery services from take-away food premises, the use of outside areas whether on the public highway or within the demise of the licensed premises, and clarification of existing model conditions where operational experience suggests improvement.
- 4.12 The Committee is asked to note this report and comment on any areas where amendment to the basket of model conditions would be useful.

## **5. Financial Implications**

- 5.1 There are no financial implications as a result of this report.

## **6. Legal Implications**

- 6.1 There are no legal implications as a result of this report.

**If you have any queries about this report please contact Chris Wroe on 020 7641 5903, or by email [cwroe@westminster.gov.uk](mailto:cwroe@westminster.gov.uk).**

## **Background Papers**

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 April 2017

## Westminster City Council – Licensing Act 2003

### Basket of Model Conditions

August 2015

When deciding to grant or vary a premises licence under the Licensing Act 2003, the licensing authority may do so subject to conditions which it considers are appropriate for the promotion of the licensing objectives.

In carrying out its licensing functions the City Council must have regard to Guidance issued under the Act by the Secretary of State. Revised Guidance states that conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. Licensing authorities should be satisfied that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Conditions should be tailored to the particular circumstance of an individual licensed premises and determined on a case-by-case basis. Standardised conditions which ignore these individual aspects should be avoided. Under no circumstances should licensing authorities regard pools of conditions as standard conditions to be automatically imposed in all cases. Guidance also urges partnership working to promote the licensing objectives.

Conditions which are appropriate to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and be translated to form part of the operating schedule for the premises. This basket of model conditions has been produced to assist prospective licence holders where they consider that they would promote the licensing objectives in the circumstances of their application.

Once an application has been made, the police, Environmental Health service, other responsible authorities, and other persons are encouraged to engage with the applicant if they are considering making a representation to the application. This basket of model conditions has been produced to assist all parties and promote a consistent approach when proposing conditions on a premises licence.

**This basket of model conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence. It does not restrict any applicant, responsible authority, or other person from proposing any alternative conditions, nor would it restrict a licensing sub-committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives.**

Model conditions are listed numerically and an index is included for ease of reference. This version of the model conditions supersedes all previous versions and will continue to be updated as required and published on [www.westminster.gov.uk](http://www.westminster.gov.uk)

Also included, for information, is a list of the current Mandatory conditions prescribed by the Licensing Act 2003 as amended.

Comments on the content and use of the model conditions are welcomed. Please contact Chris Wroe, Licensing Policy & Strategy Manager, on 020 7641 5903, or at [cwroe@westminster.gov.uk](mailto:cwroe@westminster.gov.uk)

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**Model Conditions in Numeric order**

- MC01 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
- MC02 A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- MC03 There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
- MC04 No drinks shall be served in glass containers at any time.
- MC05 A minimum of **(X)** SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
- MC06 At least **(2)** SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business.
- MC07 No patrons shall be admitted or re-admitted to the premises after **(21.00)** unless they have passed through a metal detecting search arch and, if the search arch is activated or at the discretion of staff, then physically searched, which will include a 'pat down search' and a full bag search.
- MC08 All persons entering or re-entering the premises shall be searched by a SIA licensed member of staff and monitored by the premises CCTV system.
- MC09 All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
- MC10 Customers shall not enter or leave the premises from / by **(insert specific entrances or exits)**, except in the event of an emergency.

- MC11 A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
- MC12 No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- MC13 Loudspeakers shall not be located in the entrance lobby or outside the premises building.
- MC14 All windows and external doors shall be kept closed after **(21:00)** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- MC15 There shall be no admittance or re-admittance to the premises after **(23.00)** except for patrons permitted to temporarily leave the premises to smoke.
- MC16 There shall be no sales of alcohol for consumption off the premises after **(23.00)**.
- MC17 All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
- MC18 Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- MC19 All outside tables and chairs shall be rendered unusable by **(23.00)** each day.
- MC20 All tables and chairs shall be removed from the outside area by **(23.00)** each day.

- MC21 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- MC22 Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to **(X)** persons at any one time.
- MC23 Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- MC24 A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
- MC25 An attendant shall be on duty in the cloakroom during the whole time that it is in use.
- MC26 The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- MC27 All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- MC28 Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
- MC29 No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
- MC30 No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
- MC31 No more than **(15)**% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
- MC32 There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.

- MC33 Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
- MC34 All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- MC35 No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between **(23.00)** hours and **(08.00)** hours on the following day.
- MC36 Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
- MC37 The number of persons permitted in the premises at any one time (including staff) shall not exceed **(X)** persons.
- MC38 The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
- MC39 The supply of alcohol shall be by waiter or waitress service only.
- MC40 Admission to the (***specified function room***) shall be through the premises lobby area only
- MC41 Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- MC42 During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- MC43 No collections of waste or recycling materials (including bottles) from the premises shall take place between **(23.00)** and **(08.00)** on the following day.
- MC44 [***Other than in hotel bedrooms***] There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.

- MC45 No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
- MC46 There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
- MC47 A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- MC48 A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.
- MC49 An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
- MC50 No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.



- MC51 Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given.
- dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances.
  - real flame.
  - strobe lighting.
- MC52 No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.  
NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
- MC53 In relation to the (***specified function room***) there shall be no admission after (**midnight**) other than to  
(1) residents of the hotel and their bona fide guests, or  
(2) persons attending a pre-booked function
- MC54 Licensable activities at events in the (***specified function room***) shall only be provided at pre-booked ticketed events.
- MC55 With the exception of residents and their bona fide guests, no alcohol shall be consumed more than (**30**) minutes after the permitted terminal hour for the supply of alcohol
- MC56 There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
- MC57 Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

MC58 No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.

For the purpose of this section,

'Directly' means:- employ, have control of or instruct.

'Indirectly' means allowing / permitting the service of or through a third party.

'Specified' Area' means the area encompassed within (insert name of boundary roads.)

MC59 Prior to any "designated sporting event" (as defined in the Sporting Events Control of Alcohol Act 1985) the premises licence holder shall ensure that;

(i) Alcohol sales in respect of cans of beer or cider are limited to no more than 4 cans per person for a minimum of four hours before the commencement of the relevant designated sporting event;

(ii) No sales of alcohol in bottles or glass containers are made in the period four hours before the commencement of the designated sporting event;

(iii) Alcohol sales cease for a period of one hour immediately before the commencement of the relevant designated sporting event;

(iv) On any day where there is a relevant designated sporting event taking place, the premises will not externally advertise as a result of a local store promotion the availability of beer or cider in such a way as to be likely to be the sole inducement to attract persons to the premises who are either attending the designated sporting event or in the vicinity of the premises as a result of the designated sporting event;

(v) All members of staff working at the premises are informed of this condition prior to taking up employment;

(vi) On the day of the relevant designated sporting event, upon the direction of a police officer, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the police or until the relevant designated sporting event has finished.

- MC60 The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.
- MC61 Notwithstanding condition (MC 38 / MC66), alcohol may be supplied and consumed prior to their meal in the bar area (***designated on the plan***), by up to a maximum at any one time, of (12) persons dining at the premises.
- MC62 No licensable activities shall take place at the premises until premises licence xxxx/xxxxxx/xxxx (or such other number subsequently issued for the premises) has been surrendered [*and is incapable of resurrection*].
- MC63 As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme if available.
- MC64 Queuing outside the premises shall be restricted to a designated area located at (***specify location***)
- MC65 No deliveries to the premises shall take place between (**23.00**) and (**08.00**) on the following day.
- MC66 The premises shall only operate as a restaurant  
(i) in which customers are shown to their table,  
(ii) where the supply of alcohol is by waiter or waitress service only,  
(iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,  
(iv) which do not provide any take away service of food or drink for immediate consumption,  
(v) which do not provide any take away service of food or drink after 23.00, and  
(vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

- MC67 Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as (***specify location***).
- MC68 All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.
- MC69 a. All drinking vessels used in the venue shall be polycarbonate. All drinks in glass bottles are to be decanted into polycarbonate containers or polycarbonate carafes prior to being served, with the exception of champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle.
- b. Notwithstanding a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the (***specified area***).
- MC70 The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
- MC70A The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.
- MC71 The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
- MC72 The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

- MC73 The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
- MC74 All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
- MC75 All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
- MC76 The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
- MC77 Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
- MC78 All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
- MC79 The certificates listed below shall be submitted to the licensing authority upon written request.
- a. Any permanent or temporary emergency lighting battery or system
  - b. Any permanent or temporary electrical installation
  - c. Any permanent or temporary emergency warning system
- MC80 Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
- MC81 No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
- MC82 The variation of this premises licence (***state the licensing reference number***) to include the (***state the works requested and plans reference***) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.

- MC83 The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
- MC84 On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00.
- MC85 No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
- MC86 The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the (*premises/building*) as (*offices / delicatessen / museum / theatre / hairdressers / etc*).
- MC87 No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
- MC88 Alcohol may only be sold for consumption by members of a private club and their bona fide guests (not exceeding **(4)** guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
- MC89 A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
- MC90 No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
- MC91 The number of persons accommodated at the premises (excluding staff) shall not exceed (*insert number*). Subject to the sanitary accommodation being improved to the satisfaction of the Council's Environmental Health Officer, the capacity may be increased to such number as may be agreed with the licence holder. The actual capacity will only increase when an appropriate condition to that effect has replaced this condition on the licence.

- MC92 In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
- (a) The police (and, where appropriate, the London Ambulance Service) are called without delay;
  - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
- MC93 The consumption of alcohol on the premises shall cease at (*insert hour*).
- MC94 Alcohol shall only be sold for consumption by persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept at the premises and made available for immediate inspection by police or an authorised officer of the Council.
- MC95 Notwithstanding the mandatory condition imposed by Section 20 of the Licensing Act 2003 (above) the exhibition of films pursuant to this licence will be restricted to films that have been classified as Universal (U) or Parental Guidance (PG) by the film classification body designated under Section 4 of the Video Recordings Act 1984.

### **Informatives**

The following do not form part of the Model Conditions but are provided to advise on matters related to applications.

i1 The granting of this licence or any variation to it is without prejudice to any requirement to obtain planning permission or a licence for the use of tables and chairs on a street.

## **Mandatory Conditions prescribed by the Licensing Act 2003 as amended**

### ***Mandatory conditions where the licence authorises the sale of alcohol***

#### ***Alcohol sales authorised under a Premises Licences***

*(Note: Conditions 4, 5, and 7 relate to on-sales only)*

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;



- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
- 7. The responsible person must ensure that –
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8
- (i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
  - (ii) For the purposes of the condition set out in paragraph 8(i) above -
    - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
    - (b) "permitted price" is the price found by applying the formula -  
$$P = D + (D \times V)$$
  
Where -
      - (i) P is the permitted price,
      - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
      - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
    - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
      - (i) the holder of the premises licence,
      - (ii) the designated premises supervisor (if any) in respect of such a licence, or
      - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
    - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.  
  
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### ***Supply of alcohol under a Club Premises Certificate***

The mandatory conditions 4 to 8 above will apply. If the club premises certificate authorises the supply of alcohol for consumption off the premises, the following three mandatory conditions must also be included:

1. The supply of alcohol for consumption off the premises must be made at a time when the premises are open for the purposes of supplying alcohol to members of the club for consumption on the premises.
2. Any alcohol supplied for consumption off the premises must be in a sealed container.
3. Any alcohol supplied for consumption off the premises must be made to a member of the club in person.

### ***Supply of alcohol from community premises***

The following mandatory condition will replace the first three mandatory conditions above when an application is made for a premises licence by the management committee of community premises and the licensing authority also grants an application for this alternative licence condition to be included in the licence:

1. Every supply of alcohol under the premises licence must be made or authorised by the [management committee / management board / board of trustees].

***Mandatory condition when a premises licence or a club premises certificate authorises the exhibition of films***

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

***Mandatory Condition relating to door supervision which only applies where a premises licence includes a condition that one or more individuals must be at the premises to carry out a security activity***

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.



City of Westminster

## Licensing Committee Report

|                           |   |
|---------------------------|---|
| <b>Meeting:</b>           | <i>Licensing Committee</i>                                    |
| <b>Date:</b>              | <i>Wednesday 5<sup>th</sup> July 2017</i>                     |
| <b>Classification:</b>    | <i>For General Release</i>                                    |
| <b>Title:</b>             | <i>Evening and Night Time Economy Licensing Charter paper</i> |
| <b>Wards Affected:</b>    | <i>All</i>  |
| <b>Financial Summary:</b> | <i>N/A</i>  |
| <b>Report of:</b>         | <i>Director of Policy, Performance and Communications</i>     |

### **1. Executive Summary**

- 1.1 This report sets out the process for developing the council's vision and plan for the Evening and Night Time Economy.

### **2. Recommendation**

- 2.1 It is recommended that the Licensing Committee note the contents of this report.

### **3. Background**

- 3.1 Following discussion at the March 2017 Licensing Committee, work has continued to develop the council's vision and plan for the evening and night time economy.
- 3.2 An officer Task and Finish Group has been established to deliver this commitment including officers from across a range of departments with an interest in the evening and Night Time Economy.
- 3.3 The Task and Finish Group will be responsible for developing the detailed thinking, strategy and policy proposals. It will deliver this through a process of engagement involving councillors, residents, businesses and other stakeholders.

- 3.4 The proposed process is as follows
- July 2017 – open sessions for Councillors to discuss ideas and thinking with lead members Cllrs Cox and Harvey.
  - August 2017 – Soft engagement with external partners to test early ideas etc.
  - September/October 2017 – reformed Westminster Entertainment Forum meeting to formally discuss the emerging thinking and bring together an early draft of vision.
  - Autumn 2017 – Joint Policy and Scrutiny Committee to discuss the issue, including a focus on Night Tube impacts. Shared task group between the Business, Planning and Transport Committee and the Adults, Health and Public Protection Committee.
  - A Full Council discussion could form part of this process as previously proposed by the Licensing Committee. This may be valuable at the early stages of the process to inform thinking, or towards the end to scrutinise and approve the proposals that are forthcoming. It is suggested that, if Full Council does have a role to play, it would be more constructive to hold this towards the start of the process to ensure meaningful input to the process.
  - December 2017 – proposals brought to lead Members (across a range of Cabinet Member portfolios) for informal discussion before proceeding to formal approval and publication early in 2017.
- 3.5 This process can be overlaid with a piece of dedicated engagement with residents and other local interests via Open Forum to ensure we are taking an account of a wide set of views. Consideration is currently being given to how this can be delivered.
- 3.6 The West End Partnership (WEP) will also be given the opportunity to shape and provide long-term ownership for the vision. This will be important to ensure the vision is deliverable in a partnership setting and fits with the wider vision and plan for the future of the West End.

#### **4. Financial Implications**

- 4.1 There are no financial implications as a result of this report.

#### **5. Legal Implications**

- 5.1 There are no legal implications as a result of this report.

#### **6. Staffing Implications**

- 6.1 There are no staffing implications as a result of this report.

If you have any queries about this report or wish to inspect one of the background papers please contact **Richard Cressey, Principal Policy Officer** or email **[rcressey@westminster.gov.uk](mailto:rcressey@westminster.gov.uk)**.

### **Appendices**

None

### **Background Papers**

None.

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City of Westminster

## Licensing Committee

|                           |   |
|---------------------------|---|
| <b>Item No:</b>           |   |
| <b>Date:</b>              | 5 July 2017   |
| <b>Classification:</b>    | For General Release                                     |
| <b>Title of Report:</b>   | Licensing Appeals                                       |
| <b>Report of:</b>         | Director of Law   |
| <b>Wards involved:</b>    | Not applicable  |
| <b>Policy context:</b>    | A business like approach                                |
| <b>Financial summary:</b> | None  |
| <b>Report Author:</b>     | Hayley Davies, Legal Services                           |
| <b>Contact details</b>    | Tel: 020 7641 5984<br>Email: hdavies@westminster.gov.uk |

## 1. Summary

1.1 This report provides a summary of recent appeal results.

## 2. Recommendations

2.1 That the report be noted.

## 3. Background

3.1 To date, 466 appeals have been heard / settled / withdrawn:

- 16 allowed
- 13 allowed only in part
- 56 dismissed
- 216 withdrawn
- 165 settled

## 4. Licensing Appeals

### 4.1 Sophisticats, 3-7 Brewer Street, London, W1F 0RD (Local Government (Miscellaneous Provisions) Act 1982)

On 19 December 2016 an appeal was received under the Local Government (Miscellaneous Provisions) Act 1982 against the LSC's refusal on 1<sup>st</sup> December 2016 to vary the sex establishment licence of Sophisticats, 3-7 Brewer Street, London, W1. The application sought to vary the licence so as to extend the terminal hour by three hours for relevant entertainment on the day following Mondays to Saturdays and five hours for days following Sundays. It was also proposed to vary the layout of the premises, to permit full nudity for dancers and to reduce capacity.

A second appeal has also been received against the LSC's decision of the same date, 1 December 2016 to grant a new premises licence under the Licensing Act 2003 for Sophisticats, limiting the hours to 03.00 on Monday to Saturday and 23.00 on Sundays (as opposed to the 06.00 Mon-Sat and 05.00 Sun sought by the application).

The appeals were heard over four days on 27 June to 30 June 2017. A further update will be provided at the meeting.

## 5. JUDICIAL REVIEWS / CASE STATED

### 5.1 Sex Establishment Licensing – Fees Hemming and others v Westminster City Council.

The history of and the background to this case has been set out in detail in previous reports to the Committee. The case has returned to the Supreme Court for final orders to be made following the earlier decisions of the Supreme Court and of the Court of Justice of the European Union.

The issues remaining outstanding are remedy and costs. A hearing took place at the Supreme Court on 11<sup>th</sup> May, at which both parties made submissions.

Judgment is awaited, and is likely to be received within the next couple of months.

**6. Legal implications**

6.1 There are no legal implications for the City Council arising directly from this report.

**7. Staffing implications**

7.1 There are no staffing implications for the City Council arising directly from this report.

**8. Business plan implications**

8.1 There are no business plan implications arising from this report.

**9. Ward member comments**

9.1. As this report covers all wards, comments were not sought.

**10. Reason for decision**

10.1 The report is for noting.

If you have any queries about this report or wish to inspect any of the background papers please contact Hayley Davies on 020 7641 5984; email: [hdavies@westminster.gov.uk](mailto:hdavies@westminster.gov.uk)

**Background Papers**

- None

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