



City of Westminster

Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 4th July, 2018**

Time: **10.00 am**

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

Members: **Councillors:**

Angela Harvey (Chairman)	Louise Hyams
Heather Acton	Aicha Less
Rita Begum	Tim Mitchell
Susie Burbridge	Karen Scarborough
Melvyn Caplan	Shamim Talukder
Peter Freeman	Aziz Toki
Murad Gassanly	Jacqui Wilkinson
Jim Glen	

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 via a visitor's pass which is available from the main ground floor reception at 5 Strand 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, Kisi Smith-Charlemagne, Senior Committee and Governance Officer.

Email: kscharlemagne@westminster.gov.uk Tel: 020 7641 2783

Corporate Website: 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 2, 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 21 March 2018

(Pages 1 - 10)

3. ANNUAL PERFORMANCE OF THE CITIZENS ADVICE BUREAU LICENSING PROJECT

Report provided by the Citizens Advice Bureau

(Pages 11 - 30)

4. GAMBLING POLICY DEVELOPMENT

Report of the Director of Public Protection and Licensing.

(Pages 31 - 62)

5. GENERAL LICENSING FEE REVIEW

Report of the Director of Public Protection and Licensing

(Pages 63 - 70)

**6. STREET TRADING/MARKET FEES REPORT
(PRESENTATION TO BE DELIVERED AT MEETING)**

Report of the Director of Public Protection and Licensing

(Pages 71 - 88)

7. NOTTING HILL CARNIVAL UPDATE

Report of the Director of Public Protection and Licensing

(Pages 89 - 94)

8. LICENSING APPEALS

Report of the Director of Law

**(Pages 95 -
100)**

9. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS

URGENT

10. FUTURE LICENSING COMMITTEE MEETING DATES

28 November 2018 and 20 March 2019

**Stuart Love
Chief Executive
29 June 2018**

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CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 21st March 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

Members Present: Councillors Angela Harvey (Chairman), Heather Acton, Julia Alexander, Susie Burbridge, Melvyn Caplan, Peter Freeman, Murad Gassanly, Louise Hyams, Tim Mitchell, Jan Prendergast and Karen Scarborough

Apologies for Absence: Councillors Rita Begum, Jean Paul Floru, Shamim Talukder and Aziz Toki

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 29 November 2017 be signed by the Chairman as a correct record of proceedings.

3 LICENSING CHARTER AND NIGHTSAFE PROJECT

3.1 A presentation was given to the Committee by Kerry Simpkin, Licensing Service Team Manager and Heidi Lawrance, Senior Licensing Officer entitled 'Expanding the Licensing Charter beyond the pilot and introducing the Nightsafe Initiatives - Enhancing our safe and prosperous evening and night time economy'. The presentation powerpoint slides were included in the agenda papers.

3.2 The matters raised in relation to the presentation included the following:

- The Chair requested that there was a change in emphasis for future 'drinkaware' campaigns away from the 'stay with your pack' slogan as the pack of wolves concept had a frightening connotation.

- The Chair asked who it was intended would be the Nightsafe Ambassadors working on Friday and Saturday evenings. Ms Lawrance replied that the Licensing Service was looking at working with Team London, a group of volunteers linked with the Greater London Authority. They offered tourist information and volunteered at events. They had previously been involved at the London Olympics in 2012. There would also be discussions regarding recruiting volunteers with universities, community groups, Team Westminster and the Street Pastors. All trained volunteers would be DBS checked.
- The Chair sought clarification on NHS engagement in the Nightsafe Project. Ms Lawrance responded that the Licensing Service was in talks with the Clinical Commissioning Groups ('CCG') and the London Ambulance Service. They supported the Project but wanted to see how it progressed before providing any formal assistance.
- Mr Simpkin advised that the Licensing Service was learning from the experience of the use of safe spaces, including in Swansea and Clapham. The Portman Group had produced a toolkit on the key considerations relating to the safe spaces. One of the key elements was the collection of base data.
- Councillor Hyams welcomed the Nightsafe Project and the use of volunteers. She asked whether the Licensing Service had considered finding a sponsor to cover the cost implications of the Project. Mr Simpkin replied that finding a sponsor was one of the key future objectives. Funding of £100K had been secured over a two year period from the Leader's Fund. The emphasis was on establishing the model and proving that the model works. It was hoped that once this was proved it would be handed over to a commercial entity to run it.
- Councillor Freeman asked whether the Nightsafe Ambassadors and Police would be patrolling or static. Mr Simpkin replied that the Nightsafe Corridor was where it was planned there would be a high visibility presence, including the Police and Nightsafe Ambassadors. Ms Lawrence added that the Ambassadors would be on the move, interacting with people. Venues would also be able to call the Ambassadors if there were any vulnerable individuals in their premises.
- Councillor Scarborough asked whether there were any plans to extend the Nightsafe Project beyond Friday and Saturday nights and whether it would be in operation on Bank Holidays. Ms Lawrance replied that it was intended that the Project would be in operation on Bank Holidays and during large scale events, such as Pride. Mr Simpkin confirmed that the Project was also likely to be in operation on New Year's Eve, including in the event this date did not fall on a Friday or Saturday. He mentioned that Thursdays had been looked at for the Nightsafe Project but it was not possible to extend the Project beyond Fridays and Saturdays at this time due to lack of funding. Volunteers were also more likely to be available during weekends.

- Councillor Acton asked where the Nightsafe Hub was likely to be located. Mr Simpkin informed the Committee that the location was yet to be finalised. Charing Cross Library was earmarked as a potential Hub site if an alternative site could not be found in the locality. Businesses would be consulted on potential sites. He clarified that the Hub would be a secure environment with security at the door and it would not be open to the public to walk in and out. The Police would be utilising it as a headquarters. Councillor Acton suggested that there was the option to discuss with the CCG a potential Hub site at Soho Square.
- Councillor Caplan expressed support for the objectives of the Licensing Charter. However, he emphasised that businesses were being asked to sign up to do what they were already required to do in terms of their premises licences. This was to promote the licensing objectives. It was vital that there was not the reward of less enforcement action for those businesses who signed up to the Licensing Charter initiatives. Sara Sutton, Director of Public Protection and Licensing, stated that this point was accepted. It would help to inform the risk based approach to inspections. There would be an increased confidence in management through sign-up to the Charter. In the event, however, there were issues and enforcement was required, a robust approach would be taken.

3.3 **RESOLVED:** That the presentation was noted by the Committee.

4 EVENING AND NIGHT TIME ECONOMY IN WESTMINSTER – 6PM-6AM – OUR PRINCIPLES AND RESPONSE TO THE NIGHT TIME COMMISSION

- 4.1 The Committee received in the agenda papers the Council’s response to the Night Time Commission’s consultation document. The Night Time Commission had been established by the Mayor of London. The Chair advised in her capacity as a Night Time Commissioner that a new Chairman of the Commission was yet to be appointed following Philip Kolvin’s departure. There had also been a lack of discussion with the Commissioners as to the questions posed in the consultation document.
- 4.2 Ezra Wallace, Head of Corporate Policy and Strategy, took Members through the Council’s Consultation response. He explained that the response was intended to reassert that the original scope of the Commission was about the evening and night time as a whole. The response expressed some disappointment that the consultation focussed so specifically on a narrow set of questions around the night time economy. There was an economic element associated where people went out to enjoy restaurants, bars and clubs and various forms of entertainment. However, the night time was equally for a resident who may want to use a green space or walk their dog on a quiet street, someone who might want to take part in a charitable activity or a cleaner who needed to return home in the early hours of the morning.
- 4.3 Mr Wallace highlighted the five principles for an inclusive and diverse evening and night time in Westminster and London as a whole which were set out in

the response. The first principle was that there needed to be an inclusive evening and night time for everybody, reflecting the full diversity of the City. The second principle was to create a balanced evening and night time through local assessments and London wide innovation. The third principle was to develop integrated street based services. The fourth principle was to manage the evening and night time through collaborative leadership, including public, private and voluntary sectors. The fifth principle was to promote growth and diversity within a flexible and changing economy. This would need to adapt to changing trends and customer demands. The offer would remain inclusive and open.

- 4.4 The Committee welcomed the content of the Consultation response. Members made a number of points including that the goal was not for London to be a 24 hour City with an entertainment or predominantly alcohol led economy operating throughout the night time and residents being adversely affected as a result. The Committee supported the broader range of cultural offers envisaged in the response.
- 4.5 Mr Wallace stated that the intention was to report back on any further developments in terms of the work of the Night Time Commission.
- 4.6 **RESOLVED:** That further developments in terms of the work of the Night Time Commission be reported to the Committee.

5 GAMBLING POLICY REVIEW APPROACH FOR 2018/19

- 5.1 Mr Simpkin introduced the item. He gave an update to the Committee regarding the DCMS Consultation on proposals for changes to gaming machines and social responsibility measures under the Gambling Act 2005. This had been considered at the November 2017 meeting. The Council's formal response had been submitted in January 2018 and had included that the maximum stake for Fixed Betting Odds Terminals ('FOBT') should be £2. The Gambling Commission had recommended to the DCMS on 19 March 2018 that the maximum stake should be limited to £2 for FOBT (B2) slots stakes where there was a higher rate of problem gambling associated with them than non-slot games, a more limited return and a higher spend. The Gambling Commission had also recommended that the maximum stake should be set at or below £30 for FOBT (B2) non-slot games (which includes roulette) should they have a significant effect on the potential for players to lose large amounts of money in a short space of time. Mr Simpkin commented that many of the recommendations made by the Gambling Commission in response to the DCMS' review aligned with what had been proposed in the Council's response, including in respect of online gambling and advertising.
- 5.2 Mr Simpkin said that the Licensing Service had been working on the updated gambling policy review approach for the last three years. A complete shift was being proposed away from the existing policy to one where all premises based gambling operators must undertake local gambling risk assessments. The new policy would be much more localised, would identify the key areas of

concern and would highlight the Council's approach to gambling and what the expectations are. The public consultation for the gambling policy was scheduled over a twelve week period between June and September 2018. It was expected that there would be quite a lot of communication from the gambling industry as there was a significant change to the policy from previously.

- 5.3 Councillor Scarborough welcomed the clustering policy which would require operators to have heightened measures in place to identify and support those who may be at risk or who are problem gamblers. Councillor Caplan expressed concerns that if the Gambling Commission's recommendations were accepted, there was still the potential for large stake betting machines in the high street, including B3 machines, to have an appalling and devastating effect on those vulnerable to gambling addiction. He recommended that the Council lobbied strongly against large stake betting machines. Councillor Acton made the point that currently no Public Health money was allocated to address addiction to gambling. Mr Simpkin advised that the Licensing Service was working with GamCare, the national counselling service, to support local residents in Westminster. Space was given in Council buildings to GamCare to provide counselling. Ms Sutton informed the Committee that she would be meeting with Public Health representatives in the next two weeks and would take forward this matter with them.
- 5.4 Councillor Mitchell stated that representatives of the Chinese community in the Chinatown area would be interested in being involved in any consultations on the gambling policy. He expressed the view that it would be more appropriate to include Edgware North and Church Street as a cluster of gambling premises rather than Queensway North and Church Street which were more distant from each other. Members of the Committee, including Councillor Mitchell, welcomed the twelve week length of the consultation period which give stakeholders, including residents, the opportunity to comment either before or after the summer holiday period.
- 5.5 **RESOLVED:** That the contents of the report be noted.

6 NOTTING HILL CARNIVAL APPROACH AND TEMPORARY EVENT NOTICES

- 6.1 The item was introduced by David Sycamore, Licensing Team Manager. He made the point that there had been feedback from the Committee at the previous meeting in November regarding the Notting Hill Carnival Temporary Event Notices that had been brought before the Licensing Sub-Committee in 2017. An internal process had now been established so that officers would be well versed on their approach to these TENs in the event they reached the Sub-Committee. Mr Sycamore drew Members' attention to the fact that as part of the consultation process this year, the Events and Filming Team were producing a best practice guide for operators at the Carnival that would include a licensing update. The update would request submission of TENs as early as possible.

- 6.2 Mr Sycamore advised that the Licensing Service would be engaging with stakeholders from April 2018 and would expect to receive a robust event management plan from them. The Licensing Service and the Events and Filming Team would be available to assist them in achieving this. The primary reason for this urgency was to resolve any issues relating to the crowd dynamics.
- 6.3 Mr Sycamore explained that one of the notable changes that would potentially take place at the Carnival in 2018 was the receipt of more TENs in St Luke's Road. This was on the border of Westminster and Kensington and Chelsea. One of the outcomes from a previous review was that in order to improve the crowd dynamics, Westminster would potentially have demand from operators who had previously been located in Kensington and Chelsea.
- 6.4 Mr Sycamore also mentioned that the Licensing Service would be engaging in April with one of the sound systems operators to inform them that it was not appropriate for them to submit a TEN and seek a capacity of 499 people. They would be required to apply for a premises licence and the Licensing Service would offer them support, including in terms of producing their management plan.
- 6.5 The Chair asked Mr Sycamore whether there had been any issues arising from the TENs which had been permitted at the Carnival in 2017. Mr Sycamore replied that the feedback received from licensing officers and the Police was that only one of the operators, the sound system, had proven that it was no longer appropriate for them to have a TEN. The earlier engagement with operators in 2017 than in previous years had assisted.
- 6.6 Councillor Caplan recommended that it was set out in writing to those requesting TENs that if the application was opposed by Environmental Health or the Police, the Sub-Committee only had the power to accept the TEN or refuse it. There was no process of negotiation permitted at Licensing Sub-Committee hearings. Mr Sycamore responded that this would be included in the licensing guidance document.
- 6.7 In response to a question from Councillor Burbridge, Ms Sutton advised that she had overall shared responsibility for the Council's approach to the Carnival along with Richard Gibson, Head of City Promotions, Events and Filming.
- 6.8 **RESOLVED:** That the contents of the report be noted.

7 LICENSING SERVICE OVERVIEW 2015/16 TO 2017/18

- 7.1 The Chair stated that she had requested this item as it was a time as it was last meeting of the Council term to reflect on the licensing work which had been carried out since the previous Council election. She thanked the Members of the Committee who would not be standing at the next Council election for their contribution.

- 7.2 The item was introduced by Steve Rowe, Licensing Senior Practitioner and Ros Hick, Team Manager. Mr Rowe referred to some of the significant developments for the Licensing Service over recent years. These included that the two Licensing Teams (premises based licensing and street based licensing) had merged during the previous twelve months. The merger had been of benefit to customers as there was one service and officers as they were involved in all the different licensing regimes and it developed their understanding.
- 7.3 Mr Rowe advised there had also been an increase in the number of applications received in the last three financial years. On average there had been an approximate 30 applications a month increase. There was a specific spike in applications in the months from September to November particularly due to the receipt of Temporary Event Notices relating to Christmas and New Years Eve. Resources in the Licensing Service had been directed to where they were needed in response to these trends.
- 7.4 Mr Rowe stated that trends relating to the Licensing Act 2003 applications received were also being examined by the Licensing Service on an ongoing basis. The Licensing Act 2003 applications received over the last three years had been predominantly restaurant based. The Committee noted that museums, galleries and leisure applications received was similar to those received for nightclubs, bars and pubs. Mr Rowe also added that there had been a significant increase in demand for the Licensing Service's pre-application advice service. Advice at this early stage from the Environmental Health Consultation Team often led to applications complying with the Council's policy so that they did not need to be considered by the Licensing Sub-Committee.
- 7.5 Ms Hick referred to some of the operational delivery successes. These included the Council's approach to gambling policy which had been discussed in item 5 of this agenda, joint working with the Council's Health and Safety Team following the escape of a male silverback gorilla from its enclosure into a non-public area of London Zoo and working collaboratively with HM Immigration in developing the approach that London licensing authorities would take in checking the right to work documentation resulting from the Immigration Act 2016 and its resulting amendment to the Licensing Act 2003. The Licensing Service had also worked with the Council's Digital Transformation Team to implement its own integrated online application forms which were customer friendly and reduced the amount of work, including data entry, officers were required to do in this area. Ms Hick advised the Committee that 70% of application forms were now received online. Improvements had also been made to how street licensing was regulated, including working with other Council departments with regard to markets.
- 7.6 Ms Hick mentioned that the emerging trends being identified by the Licensing Service included mixed use dining where premises would maximise their income with a clear split between a restaurant area and entertainment provided. Also cafes, health shops and gyms were applying to sell alcohol. Ms Hick said there were a number of potential impacts on the Service

including General Data Protection Regulations implementation and the review of the street trading policy to ensure it is aligned with the market strategy.

7.7 The Chair asked for clarification on how the Licensing Authority classified films. Ms Lawrence replied that there was collaborative working with the British Film Institute where officers within the Licensing Service viewed films and shared information with the BFI. Officers were trained classifiers. The Chairman requested further information on this service at the next Committee meeting in July. Councillor Caplan requested information on what percentage of applications which were submitted following receipt by the applicants of pre-application advice had been granted under delegated authority.

7.8 **RESOLVED:** That (i) further information on the service undertaken by the Licensing Service with regard to film classification be provided to the next Committee meeting in July;

(ii) That information be provided by officers on what percentage of applications which were submitted following receipt by the applicants of pre-application advice had been granted under delegated authority; and,

(iii) That the contents of the report be noted.

8 LICENSING APPEALS

8.1 Heidi Titcombe, Principal Solicitor and Manager of the Planning, Highways and Licensing Team, provided an update on licensing appeals since the previous meeting of the Committee in November 2017. She confirmed that Shared Legal Services had been handling seven appeals on the Council's behalf during this timeframe. Of the seven, one appeal for Sophisticats, 3-7 Brewer Street had been heard in June 2017. Ms Titcombe advised that costs of £42,684 had now been paid by the Appellant and received by the Council. Three further cases had been withdrawn, one was settled and two were ongoing. Full details of the cases were set out in the report.

8.2 Councillor Mitchell requested that an updated table was added to future Licensing Appeals reports for the Licensing Committee meetings setting out the number of appeals received and of these, the numbers subsequently allowed, dismissed, withdrawn or settled. This information had been made available in the past to the Licensing Committee.

8.3 The Chair thanked Members for the care and consideration they gave to Licensing Sub-Committee applications. She also thanked Shared Legal Services for their advice at Sub-Committee hearings and the work they had undertaken in respect of appeals.

8.4 **RESOLVED:** (i) That an updated table with information on licensing appeals was added to future Licensing Appeals reports for the Licensing Committee meetings; and,

(ii) That the contents of the report be noted.

9 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

9.1 There was no urgent business.

10 FUTURE LICENSING COMMITTEE MEETING DATES

10.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 4 July 2018 and Wednesday 28 November 2018. All meetings are scheduled for 10.00am.

The Meeting ended at 11.48am

CHAIRMAN: _____

DATE _____

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Licensing Committee Report

Date:	Wednesday 4 th July 2018
Classification:	For General Release
Title:	Westminster Citizens Advice Bureau – Licensing Project Activity Report 2017/2018
Report of:	Director of Policy, Performance and Communications and
Wards Affected:	All
Financial Summary:	N/A
Report Author and Contact Details:	Mr Kerry Simpkin – Interim Licensing Policy and Strategy Manager Telephone: 020 7641 1840

1 Executive Summary

- 1.1 This report seeks to advise the Licensing Committee of the work of Westminster Citizens Advice Bureau Licensing Project in 2017/2018 financial year.

2. Recommendations

- 2.1 That the Licensing Committee note the Activity Report produced by the Westminster Citizens Advice Bureau Licensing Advice Project, attached at Appendix 1

3. Background

- 3.1 The Westminster Citizen Advice Bureau Licensing Project was established in 2005 in response to the implementation of the Licensing Act 2003.
- 3.2 The purpose of the project is to provide an independent and expert advice, assistance, and representation service, free of charge to all Westminster residents and local businesses, in respect of their rights and responsibilities as potential “interested parties” at council hearings relating to licensed premises under the Licensing Act 2003, the gambling Act 2005, and Sex Establishments.

- 3.3 The project is funded by the council and managed by Westminster Citizens Advice Bureau. It is overseen by a Licensing Project Steering Group which includes representatives from the Citizens Advice Bureau and the council and which is chaired by a local resident and ex-restaurateur. The project employs a full time specialist licensing lawyer and appropriate managerial and administrative support.
- 3.4 An Activity Report produced by Westminster Citizens Advice Bureau Licensing Project is attached at Appendix 1.

4. Financial and Legal Implications

- 4.1 There are no financial implications or legal implications arising from this report.

Appendices

Appendix 1 – Citizens Advice Bureau Licensing Advice Project Activity Report 2017/18

Background Papers

None

If you have any queries about this report or wish to inspect any of the background papers please contact: **Mr Kerry Simpkin, Interim Licensing Policy and Strategy Manager, Tel: 020 7641 1840, Email: ksimpkin@westminster.gov.uk.**

Licensing Advice Project

Activity Report: 1 April 2017 - 31 March 2018



Westminster

Executive Summary

The Licensing Advice Project was set up in 2005. It is provided by Citizens Advice Westminster and funded by Westminster City Council.

The Project provides advice, assistance, information and representation to residents and businesses in respect of their rights and responsibilities under relevant licensing legislation, namely Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982. The need for advice on these issues reflects the important role given to residents in each of the three licensing regimes.

In the year 1 April 2017-31 March 2018, there were 138 new enquiries opened. We represented residents at 63 hearings¹, and made written submissions in advance of 3 hearings which we were unable to attend. We advised on 18 cases where representations made by interested parties were withdrawn following agreement.

Clients are advised by email, by phone, and in person. Clients can be advised in person at their convenience, including at their home or workplace. Advocacy on behalf of residents at licence hearings is a major part of the Project. The Project also has a dedicated website containing information and advice. We also undertake a range of other activities.

The Project has a number of benefits for clients, the local authority, and the licensing process in general, including helping to ensure that objectors put their views across effectively and focus on relevant issues in written representations and at hearings.

The Project contributes to the wider 'Campaigns and Research' of Citizens Advice.

We look forward to continuing to provide a tailored, timely, specialist, practical and pragmatic advice, information, assistance and representation service in the forthcoming year and beyond.

¹ A hearing may involve representing a single client or multiple clients.

Contents

1. Introduction and overview
2. The Licensing Advice Project's service
 - 2.1 Casework
 - 2.2 Other Project activity
3. Benefits of the Project
4. Social Policy work
5. Conclusion

Appendices

- A. Case studies
- B. Client comments and thanks

1. Introduction and overview

The Licensing Advice Project (“the Project”) is provided by Citizens Advice Westminster and funded by Westminster City Council. This Report sets out the activity of the Project during 2017-18.

The Project provides free information, assistance, advice and representation to residents of the City of Westminster (including residents’ associations and amenity societies) and businesses in respect of their rights and responsibilities as “interested parties” under three licensing regimes:

- Licensing Act 2003²
- Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1982³

The service is independent, impartial and confidential. It is the only service of its kind in the country.

The advice takes in a range of issues including representations/objections to applications made under the three regimes, or problems with the current operation of a premises.

The twin aims of the Citizens Advice service nationwide are:

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people’s lives.

To this end, the Project focuses not only on casework, but also on wider issues in licensing law on behalf of residents, for example helping to ensure that developments in the law or Council procedure are disseminated, responding to consultations at both local and national level, and contributing articles for local and national publications.

² “Interested parties’ are now known as “other persons”

³ Under the 1982 Act, resident objectors are simply referred to as “objectors”

The Project reports quarterly to a Steering Group chaired by Matthew Bennett, a resident of Westminster with expert experience of licensing issues from a resident's perspective and from a licence holder's perspective. The other members of the Steering Group are a representative from the City Council (Chris Wroe), a representative from an amenity society (David Kaner, CGCA), and the adviser's line manager, Shirley Springer, Chief Executive of Citizens Advice Westminster.

2. The Licensing Advice Project's Service

The Project has been advising residents of Westminster since 2005. It is currently staffed by:

- The adviser - Richard Brown. Richard is a qualified solicitor specialising in licensing law, particularly in Westminster.
- Project administration (Marouf Ahmed) and line management (Shirley Springer).

Licensing Act 2003 empowered local authorities with licensing functions previously exercised by licensing justices partly in order to increase the accessibility of the process to residents, who 'may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.' The philosophy of encouraging and enabling increased involvement by local people is common to all three licensing regimes.

Amendments to Local Government (Miscellaneous Provisions) Act 1982 to include 'sexual entertainment venues' were a direct result of lobbying by certain groups with the express purpose of giving local communities more of a say in such applications.

Although the three regimes covered by the Project are superficially similar in terms of residents' rights and responsibilities, there are a number of crucial differences. It is important for residents to understand the nuances of each regime. In particular, each regime has specific parameters for what can lawfully be taken in to account.

The Project has been referred to as a ‘best practice’ example of good engagement facilitated by a local authority, for example in ‘*Licensing Act 2003: its uses and abuses*’ published in 2016 by the Institute of Alcohol Studies. An advice service of this type was part of the final recommendations made in the study.

2.1 Casework

The Project has provided information, assistance, advice and representation on the following types of applications in 2017-18:

- new premises licence under s17 Licensing Act 2003
- variation of premises licence under s34 Licensing Act 2003
- review of premises licence under s51 Licensing Act 2003
- ‘minor variation’ of premises licence under s41A Licensing Act 2003
- review of premises licence under s197 Gambling Act 2005
- application for renewal of SEV licence under Schedule 3 para 8 Local Government (Miscellaneous Provisions) Act 1982
- application for new SEV licence under Schedule 3 para 8 Local Government (Miscellaneous Provisions) Act 1982
- application to vary SEV licence under Schedule 3 para 8 Local Government (Miscellaneous Provisions) Act 1982
- noise/anti-social behaviour and other public nuisance issues
- Information on appeals process
- information/advice on miscellaneous licensing issues

Level of work

No two cases are the same. For advice on applications for licences, some clients simply request information on an application or issue and do not require further assistance. More usually, clients require more detailed advice on an application and how best to frame their objections. We would then typically offer to draft or assist

with drafting their representations. Where clients request representation at hearings, we usually offer a face to face meeting to go through the procedure and explain what to expect. We suggest pragmatic approaches to applications, and to proposals by applicants' representatives, including further submissions to the authority. We liaise with applicants' representatives and attend meetings organised with residents. This can lead to withdrawal of representations without the need for a hearing to take place. We do a site visit before most hearings. We do our best to encourage and facilitate residents speaking at hearings and to focus on relevant matters. Following hearings, we report the outcome and any conditions which were imposed, and advise on next steps.

For noise problems and reviews, we advise on what options are available. Where appropriate, we will write to the licence holder/DPS and liaise with them on behalf of residents. We meet with licence holders and residents. We advise on what evidence residents need in order to bring an effective review application. We draft review application forms and witness statements, and assist with the procedural aspects, for instance ensuring that the application is correctly served.

Casework therefore tends to comprise three broad stages:

- **Information;**
- **Ongoing advice and assistance;**
- **Representation at Sub-Committee hearing(s) and any necessary follow-up.**

In 2018, the Project represented residents (ranging from a single individual to multiple residents, amenity societies and residents' associations) at 63 licensing hearings.

The Project was also asked to represent residents at a number of hearings which were either not necessary following withdrawal of representations after negotiations and agreement, or where the application was withdrawn, or where we were not able to attend the hearing but instead submitted written representations in advance of the

hearing.

Key features of casework

- Advice and representation can be provided to an individual client, to groups of 2 or more residents, to residents' associations, amenity societies, and to 'ad hoc' groups of residents.
- We can see clients in their homes or workplace, or at a convenient place e.g. a coffee shop near their home or workplace, at a time which is, as far as possible, convenient for the client. We also see clients at our offices.
- Clients can access the service outside working hours by email.
- Clients can access the Project website at their convenience.
- If a client is unable to attend a hearing, they can still be involved in the process by being represented at the hearing.

2.2 Other Project activities

- We have submitted a residents-focused article for each edition of the Institute of Licensing's 'Journal of Licensing' since its inception.
- We have developed a dedicated website, www.licensingadvice.org. The website has general information and advice on all three licensing regimes, and handy step-by-step guides to each are available to download.
- We maintain close links with amenity societies and residents' associations.
- We submit articles for residents' magazines/newsletters.
- We respond to Westminster City Council and Government consultations
- We encourage and facilitate involvement by residents in consultations

3. Benefits of the Project

Benefits for clients

- Access to specialist legal representation in a niche area of law in relation to matters which can have a profound effect on their lives.

- It is the only service of its kind in the country where resident objectors have access to free specialist advice and representation.
- Representation in terms of direct feedback and policy reporting to the local authority on issues affecting or likely to affect residents.
- Representation in terms of responses to local and national consultations affecting or likely to affect residents
- We can advise and represent more than one resident through the process and/or at a hearing.
- Residents are empowered to participate in the licensing regimes.
- Residents who do not have the time, do not wish, or do not need to contact the Project directly can access the website at their convenience.
- The Project can 'level the playing field' at hearings by providing representation at hearings to objectors.
- We can speak for residents who may feel intimidated or nervous, e.g. where the applicant is represented by an experienced solicitor, barrister or QC.
- We can explain what specific conditions mean in practice.
- The advice provided is tailored to licensing in Westminster.
- The Project provides residents with representation when residents are unable to attend hearings because of e.g. work or holiday.
- Disabled clients who are unable to attend a hearing can have representation.
- Where clients attend hearings, we endeavor to help them to address the Sub-Committee themselves to give their individual perspective. Our experience is that thus helps residents feel that they truly participate in the process.

Benefits for the local authority

- We can coordinate a number of representations and concerns, especially regarding last minute changes to an application or additional conditions being proposed. This can lead to more efficient and effective hearings.
- Saving of officer time.
- The service is independent of Westminster City Council
- Councillors and officers are able to refer residents to the Project.
- The advice is tailored to licensing issues in different parts of Westminster.

- Goodwill - clients have expressed appreciation for the City Council providing the service.
- The service can help facilitate agencies working to a common goal e.g. when residents support responsible authority-led reviews.
- Residents can take their own action without waiting for responsible authorities to do so e.g. licence reviews.
- Residents' views can still be heard when they are unavailable to attend a hearing, rather than requests for adjournments being made.
- Allows residents to play full role at a hearing e.g. be party to discussions beforehand/during, and receive pragmatic advice and explanations of developments and decisions.
- Reputational benefit in funding a unique service.

Benefits for the process as a whole

- Resident involvement is encouraged, as the legislation envisages.
- Concerns are focused on relevant matters.
- Applicants can have one point of contact for multiple resident objectors.
- Objectors sometimes withdraw or do not make representations having taken advice, thus saving time and expense for all.
- Conditions can be agreed or proposed prior to a hearing.
- Can lead to better lines of communication between residents and applicants.
- Late changes to applications can be explained to residents independently.
- 'Live' issues can be narrowed down or at least clarified prior to a hearing.

4. Social Policy (“Campaigns and Research”)

The Social Policy work of Citizens Advice involves collecting client evidence, locally and nationally, to campaign for change to policy and practice.

Social policy work in the context of the Licensing Advice Project can include: cases where the impact of the advice given is wider than the individual to whom the advice is given, or cases which sets a precedent which has a wider impact than the

individual case itself. For example, we have assisted residents' associations/amenity societies, or individual residents who are themselves acting on behalf of other residents, or a resident shares the advice with other residents.

We also contribute to Social Policy work through dissemination of useful information about Council procedure/best practice, either through the website, by emailing amenity societies, or by informing individual clients as appropriate. For example, we have sent out topical procedural information to amenity societies - e.g. changes in contact details for the Licensing Teams and details of consultations.

5. Conclusion

The twin aims of Citizens Advice dovetail with the remit of the Project. Providing residents of Westminster with access to specialist advice and representation is an important step in ensuring that residents are empowered to exercise their rights and responsibilities and participate in the democratic process which Parliament has, in each of the licensing regimes, entrusted to local authorities.

The effective participation of residents in these licensing regimes helps to ensure that the views of all stakeholders are taken into account when the licensing authority exercises its functions under Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982.

We look forward to continuing to meet the needs of the community by providing tailored, timely, specialist, practical and pragmatic advice, information, assistance and representation going forward.

APPENDIX A: Case studies

Representations on licence applications

Location: Mayfair

Client type: individuals (16) and residents' associations

Application type: application for new premises licence

Introduction and background

The application was for a new premises licence for the ground floor and basement of a building which had previously been occupied by three separate, distinct operations with their own individual premises licences.

On first floor level and upwards there were 24 residential flats whose occupants would be affected by any untoward noise nuisance.

A significant part of the applicant's case was a comparison of the historic permissions (planning and licensing) pertaining to the building, when compared to the current proposed planning use and conditions, and licensable activities.

The applicant contended that the application, when looked at 'in the round' would be less likely to have an adverse impact on the licensing objectives than the previous operations.

The application

The application had long been anticipated by residents, who knew that the building was being refurbished and that a premises licence would at some point be applied for. They accepted that a licence of some kind would be granted, but wished to restrict it to reasonable hours and conditions. In particular, they wished to raise concerns about the location of the entrance to the premises, just below many bedroom windows. The previous entrance was further away from bedrooms. This, combined with the late hour sought (1am) and the large capacity led them to disagree with the applicant's view that their application would result in a licence which would less potential to impact negatively on the licensing objectives than previously.

We undertook thorough research into the current permissions under planning legislation and licensing legislation, and made a comparison with what was being proposed now. Planning permission had been granted for a 1am terminal hour with a large capacity, but it was clear that the planning authority had (rightly) taken into account the lawful planning use, part of which was a nightclub.

One of the three previous occupants was a nightclub, which ceased operating in 2011 when it had its licence revoked. We had acted on behalf of a large number of

residents who had supported the revocation. The premises licence covered the basement of the premises and had a terminal hour of 4am. The premises caused serious problems of crime and disorder and public nuisance. The premises licence was revoked following an 'expedited' review from the Police, supported by residents. We represented residents at the review hearings and supported them through the appeal process, which was lengthy.

The other two previous occupants were restaurants, to 'core hours' and just beyond 'core hours'. One premises licence did in fact permit sale of alcohol without table meals, but was in any event operated as a restaurant. Both premises ceased trading in 2011 when the building was closed for redevelopment.

It was clear from the planning documentation that the three lawful planning uses had played a large part in the terminal hour granted, the capacity and the location of the entrance.

We advised that whilst this may have been the case in planning, it did not follow that it should be the case in licensing, because there was no premises licence for a nightclub. Therefore the comparison should be with the two restaurants for which licences remained, rather than the two restaurants and a nightclub, as the nightclub licence was revoked in 2011. This, residents felt, should lead to a different conclusion by the licensing authority.

We liaised at great length with the 'lead' resident, who also carried out a large amount of research into comparable premises and spend a great deal of time engaging with other residents to ensure a coordinated response. We drafted a lengthy submission for the resident and for his neighbours, 15 of whom signed up to the letter. We also prepared a general advice document for the 'lead' client to share with his neighbours, advising them on the requirements for submitting a representation and the sorts of issues to consider. A number of them submitted individual representations.

We arranged a site meeting with the client at his flat, and were able to gain an understanding of the points residents were concerned with.

We liaised on behalf of the clients with the applicant's solicitors, and attended a meeting with their solicitors on behalf of the clients. The main issues were discussed at length, and the views of the clients made clear to the solicitors.

We had been providing ongoing advice to the clients during the period prior to the hearing being listed.

The hearing

We were asked to represent the clients at the hearing when the application would be determined.

We obtained and distributed a copy of the Licensing Sub-Committee Report, and advised all the residents of the relevant points. There was over 500 pages of documentation, which we attempted to distil into the salient issues for residents to consider.

We met with 'lead' client at his workplace to go through the documentation and decide if anything else should be submitted. We decided to submit a further document addressing and rebutting erroneous points made by the applicant.

We prepared thoroughly for the hearing, ensuring that a strategy had been planned with the 'lead' client, and what concessions to ask for, should a licence be granted.

The applicant was represented at the hearing by a specialist licensing QC and solicitors. A number of residents attended. We represented a total of 16.

The hearing was very lengthy, and all parties had ample opportunity to submit their views to the Committee. We made lengthy submissions addressing the application, the representations, and rebutting points made by the applicant's QC, particularly the basis for the decision of the planning authority. A number of residents also addressed the Sub-Committee.

The application was granted, but to an earlier terminal hour than initially proposed. There were further concessions and conditions imposed to manage dispersal from the premises, given the location of the entrance.

Conclusion

Residents were able to put forward an effective and coherent response to a large scale application for a late night alcohol licence beneath their homes. They were able to give voice to their concerns and have some of them ameliorated by the Committee in granting the licence with additional conditions.

Premises: Outdoor area

Location: Knightsbridge and Belgravia Ward

Client type: individuals (x4) and residents' society

Application type: application for new premises licence

Introduction and background

We were contacted by a representative of a residents' society in Belgravia, who had objected to a new premises licence for a garden square.

A large number of residents had made representations in respect of the application, some in support but largely opposed.

The application

There were some unusual issues involved in the application, as the square is one of a number in Westminster covered by London Squares Preservation Act 1931. The Act stipulated that squares covered by the Act are designated as 'protected squares'. s3(1) provides that 'subject to the provisions of this Act a protected square shall not be used otherwise than for one or more of the following purposes...the purpose of an ornamental garden pleasure ground or ground for play rest or recreation ("authorised purposes")...and no building or other structure or erection shall be erected or placed on or over any protected square except such as may be necessary or convenient for or in connection with the use and maintenance of such square for one or more of the authorised purposes.'

The society had taken the view that this precluded the Council from granting a licence. We arranged a meeting with the society, attended by 3 members. Each had made their own individual representation. The residents had a number of ideas about how to best approach the application, and we advised on the feasibility of these. We gave advice on the relevance of the 1931 Act, and associated case law.

We drafted a submission on behalf of the society, covering the relevant legal, policy and factual matters in order that the Sub-Committee had a clear idea of the residents' position prior to the hearing.

We met again prior to the hearing and discussed changes which had been made to the application, and how best to approach the hearing in terms of who should speak and what matters they should cover.

The hearing

The hearing was adjourned to a different date. When the hearing took place it was attended by a large number of residents, some of whom had made representations and some of whom wished to attend the hearing as members of the public.

We represented the residents' society and a number of individual residents. As is not unusual, the application was amended both immediately before the hearing (in discussions with the applicant's solicitor) and further during the hearing itself. When this happens it really emphasizes the value of the Project representing residents at

hearings, as they may not be able to appreciate the significance of such changes made with no time given for them to consider the ramifications.

We presented the case for the residents, focusing on the relevant points, and introduced a number of them to speak. We outlined to the Sub-Committee what measures the residents thought would be appropriate if the Sub-Committee was minded to grant a licence.

The Sub-Committee did grant a licence, but on fairly limited and stringent terms, particularly as to the number of events permitted per annum.

Conclusion

The residents were pleased with the outcome. A number of residents who had not had previous contact with the Project thanked us for our efforts at the hearing.

Appendix B: Client comments/feedback

Client comment: 'I would like to express our sincere thanks to [the Project] for all your work for us. We are getting many messages from many residents to express their gratitude.' - **Belgravia resident.**

Client comment: 'Thanks you so much for all of your help yesterday. It was a fascinating (although very lengthy!) process that I would not have been confident with if it had not been for [the Project]'. – Soho resident.

Client comment: 'Yet again [the Project] delivered and made me feel informed and confident.' - **Amenity Society**

Client comment: 'Thank you for all your help with this, it has made a big difference to our quality of life. Very much appreciated. Hopefully your action will have resolved the situation.' – **Church Street ward resident**

Client comment: 'Thank you so much for ALL your support and advice. We could never have managed without you attending/representing the residents yesterday as well as guiding us through the process and legislation. The leaseholders are most grateful for your time and expertise.' – **Fitzrovia resident**

Client comment: 'That is fantastic news! I've cc'd our local Councillor who has been taking an interest in our progress.' – **Fitzrovia resident**

Client comment: 'Without [the Project] it would be nigh-on impossible for 'ordinary' folk like us to object to such applications.' – **Soho resident**

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City of Westminster

Licensing Committee Report

Date	04 July 2018
Classification	For General Release
Title or report	Gambling Policy Review and Public Consultation Approach
Joint report of	Director of Policy, Performance and Communications and Director of Public Protection and Licensing
Decision maker	Licensing Committee
Wards involved	All
Financial summary	N/A
Report author and telephone	Mr Kerry Simpkin – Interim Licensing Policy and Strategy Manager Telephone: 020 7641 1840

1 Executive Summary

- 1.1 The report sets out the key approaches to the development of the Council's new Statement of Gambling Principles (gambling policy) under the Gambling Act 2005 (the Act). Officers are seeking the Committees views on a draft proposal to introduce a formalised voluntary approach for operators to promote engagement with the local community before submitting a formal application to the council.
- 1.2 The Council have updated its vulnerability index maps with the latest data. These new maps will form the basis for the local area profile within the new gambling policy.
- 1.3 A provisional timeline for public consultation has been established to meet the requirements for the implementation of the new policy in January 2019.

2. Recommendations

- 2.1 The Committee views are sought on:
 - 2.1.1 The proposal to include a Community Impact Assessment process, set out within part 6 of this report within the draft gambling policy, and
 - 2.1.2 The proposed public consultation approach, as set out in part 7 to this report

3. Background

- 3.1 The Licensing Committee considered a report on the proposals for the review of the Councils gambling policy on the 21st March 2018. The Council is required by the Act to undertake a review of its gambling policy every three years. The current version of the gambling policy will expire on the 30th January 2019. A brief summary of the proposed approach to the new gambling policy is set out below.
- 3.2 Officers are continuing to develop the new gambling policy with a view to consulting on the proposed new gambling policy during the summer.

4 Proposals for the Councils New Gambling Policy

- 4.1 The new gambling policy will set out the Councils views and approach to regulating gambling within the City. It will introduce a Local Area Profile (LAP), which will set out key locations within Westminster that have been identified as being areas of where there is a greater risk of harm to children and the vulnerable from gambling. These areas will be called Special Consideration Zones and specific policies will relate to premises that are operating or intend to operate in these areas. The LAP will also identify where there are clusters of gambling premises (three or more within a 400m radius of each other). The areas where clusters of gambling premises have been identified will also have specific policies.
- 4.2 The policy will be set out in parts to enable each type of gambling operator e.g. casino, betting, etc to review the relevant part that applies to them. The new policy moves away from generic policies covering all types of gambling operation to provide more clarity to operators and residents. Each part will set out the Councils policy towards key issues associated with that category of gambling premises. Premises located within a Special Consideration Zone or gambling premises cluster will be required to provide greater mitigation to specifically address the risks in that location.
- 4.3 In addition to the council's policies associated with premises licences the proposed gambling policy will provide detail on the other permissions that the Licensing Authority are responsible for determining, such as permits, notifications and registrations.
- 4.4 The proposed gambling policy is intended to provide gambling operators, responsible authorities and local residents with the expectations and approach that the Council will take when considering and determining applications under the Act.

5. Gambling Vulnerability Index

- 5.1 The Licensing Service commissioned Geofutures to carry out a refresh of Westminster's Gambling Vulnerability Index in 2017. This update would use

updated data to represent the current risks to vulnerability. The original Vulnerability Index was created with data from 2014/15. Geofutures have now completed this refresh and have produced updated versions of the maps associated with that work. A copy of the updated maps is provided at Appendix 1 to this report.

- 5.2 The updated maps demonstrate that areas of vulnerability do change over time. The new maps show that some areas of risk previously identified within the index have increased in size, shifted slightly and the level of risk has increased or decreased. A comparison of the 2015/16 and 2017/18 vulnerability map is provided at Appendix 2.
- 5.3 The bigger change between the 2015/16 and 2017/18 maps are around Victoria, West End and Paddington/Edgware Road. Victoria has seen the hot spot increase in size between the two periods. This change in size has occurred because a new gambling support service has opened in the area. The hotspot to the south of the West End has seen an increase in the level of vulnerability risk. This has also been caused by the opening of a new gambling support service in the area. Paddington/Edgware Road has seen a slight decrease in the vulnerability risk level during this period. This decrease in the level of vulnerability is due to a reduction in the level of unemployment in the area and a slight reduction in the number of people who are suffering from poor mental health.
- 5.4 The gambling policy will still be identifying the hotspots shown on the new maps as special consideration zones within the proposed new gambling policy. These zones are located in:
 1. North West (Harrow Road)
 2. Paddington and Edgware Road (North)
 3. West End (North)
 4. West End (South)
 5. Victoria and Pimlico
- 5.5 Each area has distinct vulnerability traits that require various approaches based on where gambling premises are located within the City. Even though the risk matrix has identified these hotspots within the City this does not mean that there are no risks of gambling related harm outside of these hotspot areas. The matrix indicates that within those hotspots there are high concentrations of risk factors, which heighten the risk of harm.

6. Community Impact Assessments

- 6.1 Officers have been considering how operators could engage with local communities prior to making their application to the council. When new applications are made local residents will often object to that application if they

have any concerns. Operators do not engage with local residents before they make their application to the Council. This can cause concerns for local residents and establish an adversarial approach between the applicant and the residents. The period between the submission of the application to when it is determined is limited and can hinder engagement. There are statutory obligations on the Licensing Authority to determine the application as soon as possible.

- 6.2 Officers feel that for new applications and significant changes to existing licences there is a need for operators to take more of a proactive approach to engagement prior to making an application to the Licensing Authority. If operators were encouraged to proactively engage with residents it could enable the identification of the residents' concerns so that they could be considered by the operator. Operators would then either change their proposals, propose mitigation to address the concerns or decide that they disagree with the resident and will await the decision of the Licensing Authority.
- 6.3 Officers are proposing that the new gambling policy promotes the use of Community Impact Assessments to promote engagement. Gambling operators who intend to apply for a new licence or vary their current licence substantially could undertake the Community Impact Assessment process.
- 6.3 The Community Impact Assessment process will be set out in detail within the proposed gambling policy. It will set out the structure for the Community Impact Assessment process, how operators should approach engaging with the local community and define the format for the assessment. There will be five elements to the assessment. These are:
 - 6.3.1 The proposal – sets out what the original intention of the operator is and how they will manage it.
 - 6.3.2 Community Engagement – sets out the engagement approach undertaken by the operator and who they have engaged with.
 - 6.3.3 Responses – enables the operator to set out the responses to the community engagement that it has received.
 - 6.3.4 Assessment of responses – the operator will demonstrate how they have considered the responses and what their views are on the comments that have been made.
 - 6.3.5 Finalised proposal and rationale – the operator after carrying out the assessment of the local community responses will finalise their approach and rationale.
- 6.4 Operators would be encouraged to submit the completed Assessment to the Council upon formal application. This approach may assist the Council in determining the application, as it will set out who within the community the operator has engaged with, what the operator has considered and what they are proposing, if any to address any local resident concerns. This approach will not limit the weight that the Licensing Authority will give to local resident representations. However, this approach may encourage better engagement

with the local community and may reduce the need for hearings if residents' concerns can be addressed.

- 6.5 The additional cost associated with the operator undertaking a Community Impact Assessment may be offset by a reduction in the time and work associated with dealing with representations during the formal consultation period. This approach may also remove the associated costs of preparing for and attending a hearing.
- 6.6 The proposal to introduce a Community Impact Assessment is not a statutory requirement and the Council would not seek to impose it on operators. However, officers feel that this new approach could lead to better engagement with the local community, greater transparency on the part of the operator, an ability for that operator to consider the local communities views without any imposing deadline and a reduction in the costs to both the applicant and the council during the formal application phase.
- 6.7 If this approach is considered as a way of encouraging improved engagement then there may be the potential to consider promoting the Community Impact Assessment approach for other licensing regimes applications, such as Licensing Act 2003.

7. Proposed Approach for Public Consultation on the New Gambling Policy

- 7.1 The Licensing Service intends, subject to receiving formal approval from the Cabinet Member for Public Protection and Licensing in consultation with the Chair of the Licensing Committee to start public consultation in July. We intend to publish the proposed new gambling policy along with a consultation document that will set out a number of questions relating to the Councils new policy approach. The consultation information and documents will be made available online to download and hard copies will be sent to all of the gambling operators, responsible authorities and other key stakeholders for comment. If requested we will also provide hard copies to residents or businesses.
- 7.2 We intend to host a number of workshops during August to enable engagement with gambling operators, key stakeholders and local residents. These workshops will enable specific discussions to take place on key elements of the proposed policy. Officers will seek to capture the views and comments made during these workshops along with any formal consultation responses that the Council receives.
- 7.3 The proposed timeframe for public consultation and adoption of the gambling policy, which is an amended version to that put before the Committee in March is set out within the table below.

Action	Key dates and time frames
Approval for commencing public consultation on the revised draft of the gambling policy provided	W/C 16 th July 2018

by Cabinet Member in consultation with the Chair of the Licensing Committee	
Start of Public Consultation	20 th July 2018
Gambling Sector workshops	W/C 6 th August 2018
Public Consultation Closes	28 th September 2018
Consultation responses consideration, finalisation of draft revised policy and legal clearance.	28 th September to 5 th October 2018
Cabinet member report in consultation with the chair of the Licensing Committee referred for approval to full Council	W/C 15 th October 2018
Cabinet Member formal referral to Full Council for decision on draft revised policy	No later than 25 th October 2018
Full Council for determination of new/revised policy	7 th November 2018
Formal press notice placed in local newspaper	W/C 3 rd December 2018
New/revised gambling policy commences	31 st January 2019

8. Legal Implications

- 8.1 The Gambling Act 2005 provides that any amendments to the Council's Gambling Policy have to be formally considered and approved by full Council.

Appendices

Appendix 1 – Updated Geofutures Gambling Risk Matrix Westminster (2017/18)

Appendix 2 – Comparison on Geofutures Risk Matrix Map (2015/16 and 2017/18)

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Background Papers

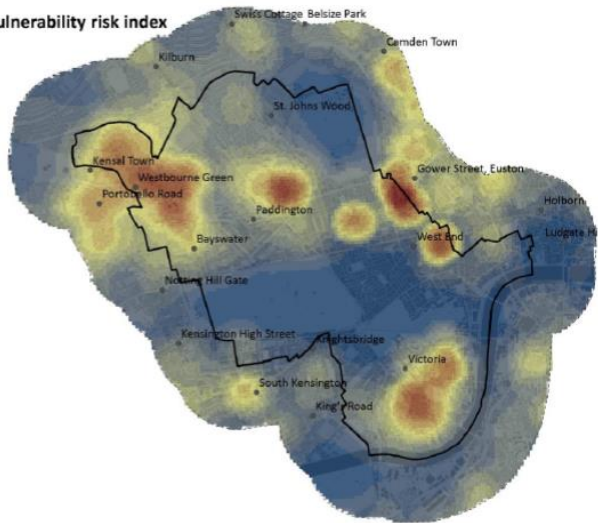
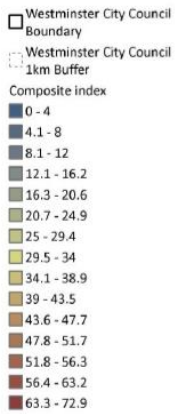
- Gambling Act 2005
- Westminster City Council Statement of Principles 2016 - 2019
- Cabinet Member Briefing on Gambling policy development dated February 2017
- Geofutures report: 'Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review' – Published 2016
- Geofutures report: 'Exploring area-based vulnerability to gambling-related harm: Developing the gambling related harm risk index' – Published 2016
- Geofutures report: 'Examining the effect of proximity and concentration of B2 machines to gambling play' – Published 2016
- Gambling Policy Review Approach for 2018/19 Licensing Committee Report dated 21st March 2018

Comparison of Westminster Gambling Vulnerability Index Maps 2015/16 and 2017/18

2015/16

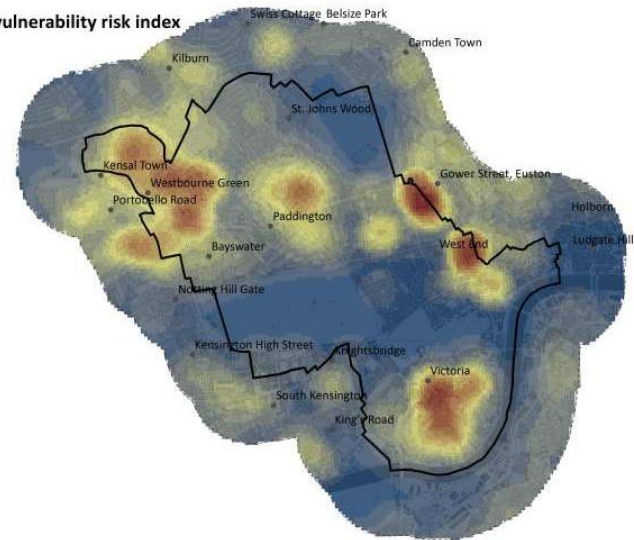
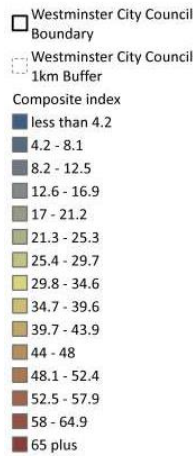
2017/18

Gambling-related harm vulnerability risk index



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Gambling-related harm vulnerability risk index



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Geofutures

Gambling & Place Research Hub

Westminster gambling-related harm risk index Updates at summer 2017



Prepared by Geofutures for
Westminster City Council

Commercial and in confidence
July 2017

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Background

In 2015 Geofutures Ltd was commissioned by Westminster and Manchester City councils and the Local Government Association to explore which groups of people were more likely to be vulnerable to gambling-related harm and where these different groups of people were located.¹ We created a 'risk index', shown on a map, to highlight the places where people may be more vulnerable to gambling harm because of who lives there or because of services available to vulnerable people in each area.²

The gambling risk index draws together multiple sources of quantitative information, to represent theoretical markers of harm. The model uses a tree-based model and density estimates (often referred to as 'hotspot' maps), as the geographical results shown on a map. The results give an estimate of risk for each 'cell' across a study area.

The model was intended to inform decision-making for recent policy changes, which require Local Authorities to undertake a local risk assessment for their areas. The results have also since been used by health practitioners to target their resources for treatment and harm prevention.

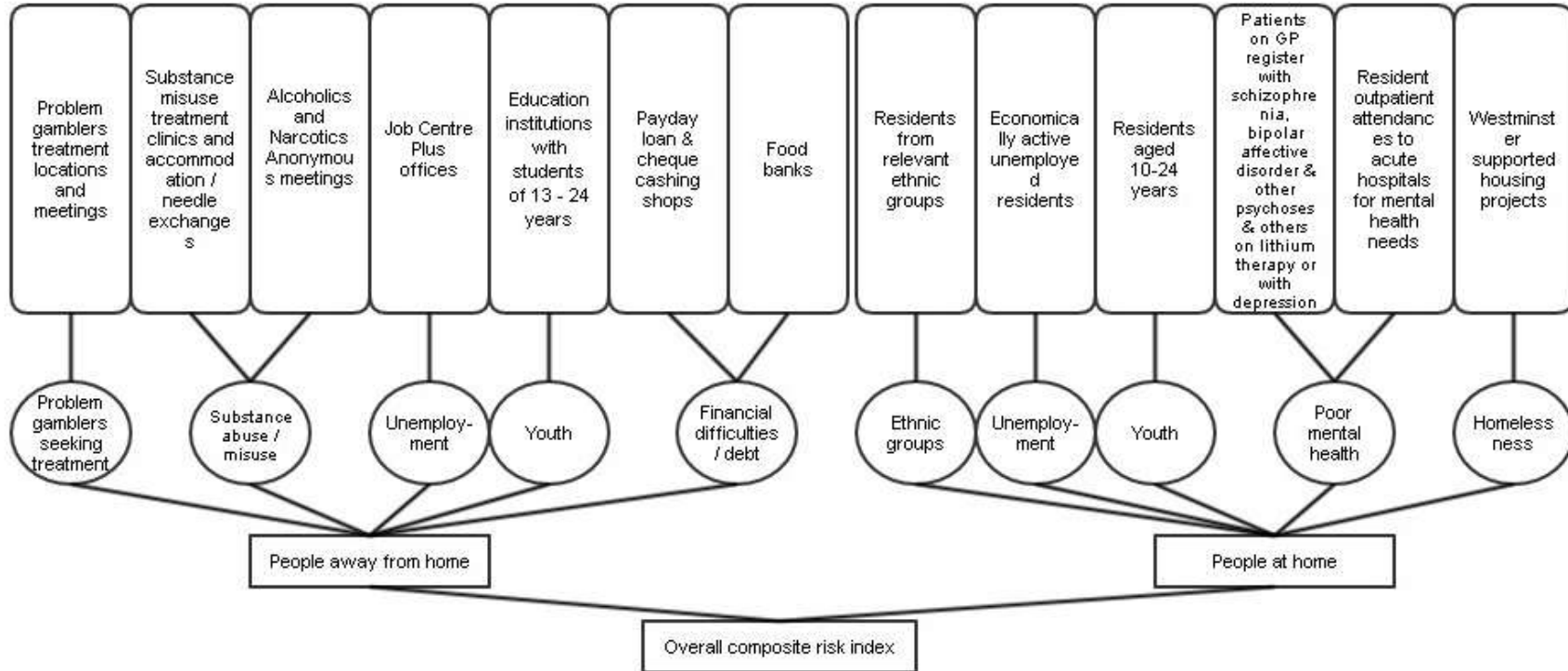
Since this time some of the locations and data used in the model has changed. This report shows the results of the modelling in summer 2017 with new updates to data where it is available.

¹ transact.westminster.gov.uk/docstores/publications_store/licensing/final_phase1_exploring_area-based_vulnerability_and_gambling_related_harm_report_v2.pdf and transact.westminster.gov.uk/docstores/publications_store/licensing/final_phase2_exploring_area_based_vulnerability_to_gambling_related_harm.pdf

² <http://mapcase.geofutures.com/gamblingriskindex/westminster/>

Data sources

Indicators used in the 2017 Westminster gambling risk index model are shown below.



Data sources for the 2017 Westminster model are shown below. *Those data sources listed in italics have been updated since the original model.*

Criteria	Indicator/measure	Dataset	Reference date	Geographic scale / aggregation	Dataset owner & copyright	Geographic availability	KDE band width	Weighted by	Missing boroughs	Data updated in 2017?
Problem gamblers who are seeking treatment	<i>Gamblers Anonymous meetings</i>	<i>Gamblers Anonymous website lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Gamblers Anonymous</i>	<i>UK</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>
	<i>Gamcare treatment locations</i>	<i>Gamcare website lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Gamcare</i>	<i>England</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>
	<i>Problem gambling meetings</i>	<i>Westminster Homeless and Health Coordination Project lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Westminster Homeless and Health Coordination Project</i>	<i>Westminster City Council</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes – added to model in 2017</i>
Substance abuse/ misuse	<i>Drug and alcohol treatment centres</i>	<i>Local Authority lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Westminster City Council</i>	<i>Westminster City Council</i>	<i>400m</i>	<i>None</i>	<i>All surrounding</i>	<i>Yes - data provided by Westminster City Council in both models. Clinics in GPs absent in 2017 data</i>
	<i>Needle exchanges</i>	<i>Local Authority lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Westminster City Council</i>	<i>Westminster City Council</i>	<i>400m</i>	<i>None</i>	<i>All surrounding</i>	<i>Yes - data provided by Westminster City Council in both models</i>
	<i>Accommodation for persons who require treatment for substance misuse</i>	<i>Care Quality Commission care directory</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Care Quality Commission open data</i>	<i>England</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>

Criteria	Indicator/measure	Dataset	Reference date	Geographic scale / aggregation	Dataset owner & copyright	Geographic availability	KDE band width	Weighted by	Missing boroughs	Data updated in 2017?
	<i>Alcoholics Anonymous meetings</i>	<i>Alcoholics Anonymous website lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Alcoholics Anonymous</i>	<i>Great Britain</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - added to model in 2017</i>
	<i>Narcotics Anonymous meetings</i>	<i>Narcotics Anonymous website lists</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Narcotics Anonymous</i>	<i>Great Britain</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - added to model in 2017</i>
Poor mental health	<i>Number of patients recorded on the GP register with schizophrenia, bipolar affective disorder and other psychoses, and other patients on lithium therapy or with depression (18 or over)</i>	<i>Quality Outcomes Framework (QOF) GP statistics</i>	<i>April 2015 – March 2016</i>	<i>Unit postcode</i>	<i>NHS Digital. Available under Open Government Licence.</i>	<i>England</i>	<i>400m</i>	<i>Number of patients</i>	<i>None</i>	<i>Yes - same data source used</i>
	<i>Number of resident outpatient attendances to acute hospitals relating to treatment function specialities 710 (adult mental illness), 722 (liason psychiatry), 723 (psychiatric intensive care)</i>	<i>NHS Digital hospital episode statistics</i>	<i>2015-2016</i>	<i>2011 Lower Super Output Area</i>	<i>NHS Digital. Provided under restricted licence for the purpose of this project</i>	<i>Local Authority</i>	<i>750m</i>	<i>Number of residents</i>	<i>All surrounding</i>	<i>Yes - same data source used</i>
Unemployment	<i>Job centre Plus offices</i>	<i>Directgov http://los.direct.gov</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Department for Work and Pensions. Data available in the public domain</i>	<i>UK</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>

Criteria	Indicator/measure	Dataset	Reference date	Geographic scale / aggregation	Dataset owner & copyright	Geographic availability	KDE band width	Weighted by	Missing boroughs	Data updated in 2017?
	Number of economically active unemployed residents	Census 2011 table QS601	March 2011	2011 Output Areas	Office for National Statistics. Available under Open Government Licence.	UK	750m	Number of residents	None	No
Ethnic groups	Number of residents from Asian/Asian British, Black/African/Caribbean/Black British, Arab or other ethnic groups	Census 2011 table KS201	March 2011	2011 Output Areas	Office for National Statistics. Available under Open Government Licence.	UK	750m	Number of residents	None	No
Youth	<i>Education institutions with students of 13-24 years</i>	<i>Edubase2</i>	<i>June 2017</i>	<i>Address coordinates of the institution</i>	<i>Department for Education. Available under Open Government Licence.</i>	<i>England</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>
	Number of residents aged 10-24 years	Census 2011 table QS103	March 2011	2011 Output Areas	Office for National Statistics. Available under Open Government Licence	UK	750m	Number of residents	None	No
Financial difficulties / debt	<i>Payday loan and cheque cashing shops</i>	<i>Web searches</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>n/a</i>	<i>Local Authority</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>

Criteria	Indicator/measure	Dataset	Reference date	Geographic scale / aggregation	Dataset owner & copyright	Geographic availability	KDE band width	Weighted by	Missing boroughs	Data updated in 2017?
	<i>Food banks</i>	<i>Trussell Trust website and web searches</i>	<i>June 2017</i>	<i>Unit postcode</i>	<i>Trussell Trust</i>	<i>Local Authority</i>	<i>400m</i>	<i>None</i>	<i>None</i>	<i>Yes - same data source used</i>
Homelessness	<i>Westminster supported housing projects</i>	<i>Local Authority lists</i>	<i>December 2017</i>	<i>Unit postcode</i>	<i>Westminster City Council</i>	<i>Local Authority</i>	<i>400m</i>	<i>None</i>	<i>All surrounding</i>	<i>Yes - data provided by Westminster City Council in both models</i>

Income data

There is emerging evidence to suggest that income can be measured as a theoretical marker of harm in the gambling risk index model. We have considered the inclusion of income in this updated Westminster model using the CACI Equivalised Paycheck Postcode Directory, available to Westminster City Council. The data provides both estimated average household income estimates and estimates for the total number of households by Census output areas in Westminster.

We have not included this data in the model due to some limitations with the data. The CACI input data itself is modelled using a variety of other data sources, of which there are known error margins when modelled. CACI's methodology arrives at household and population counts which are higher than the 2011 Census by around 14% and 13% respectively. We suspect that the true resident population figures are too high due to the significant second homes problem in Knightsbridge and St James for example. In addition, the average income values used by CACI are likely to be skewed by a few very high earners. The resultant error margins when we model the data again are considered to be too high.

Mapped results

The updated mapped results are shown below.

Gambling-related harm vulnerability risk index

□ Westminster City Council Boundary

□ Westminster City Council 1km Buffer

Composite index

■ less than 4.2

■ 4.2 - 8.1

■ 8.2 - 12.5

■ 12.6 - 16.9

■ 17 - 21.2

■ 21.3 - 25.3

■ 25.4 - 29.7

■ 29.8 - 34.6

■ 34.7 - 39.6

■ 39.7 - 43.9

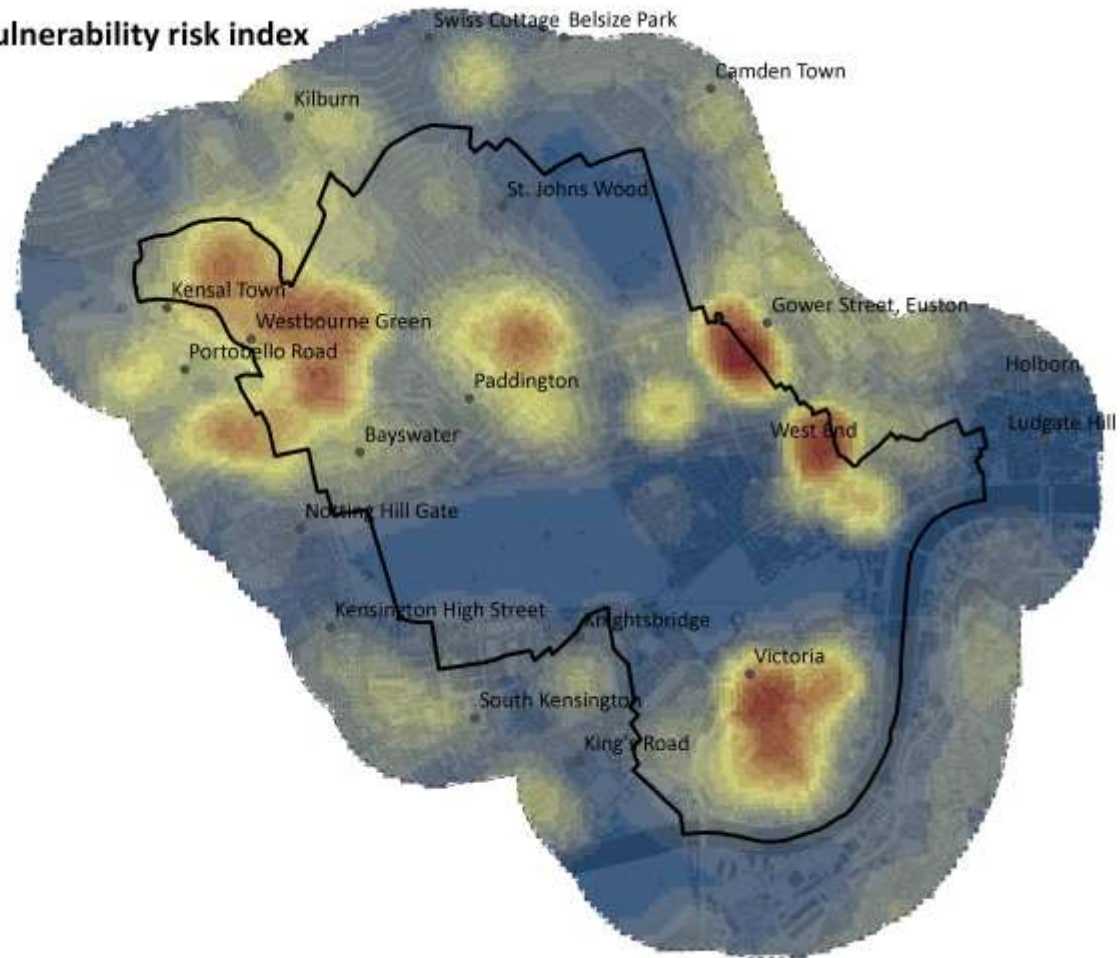
■ 44 - 48

■ 48.1 - 52.4

■ 52.5 - 57.9

■ 58 - 64.9

■ 65 plus



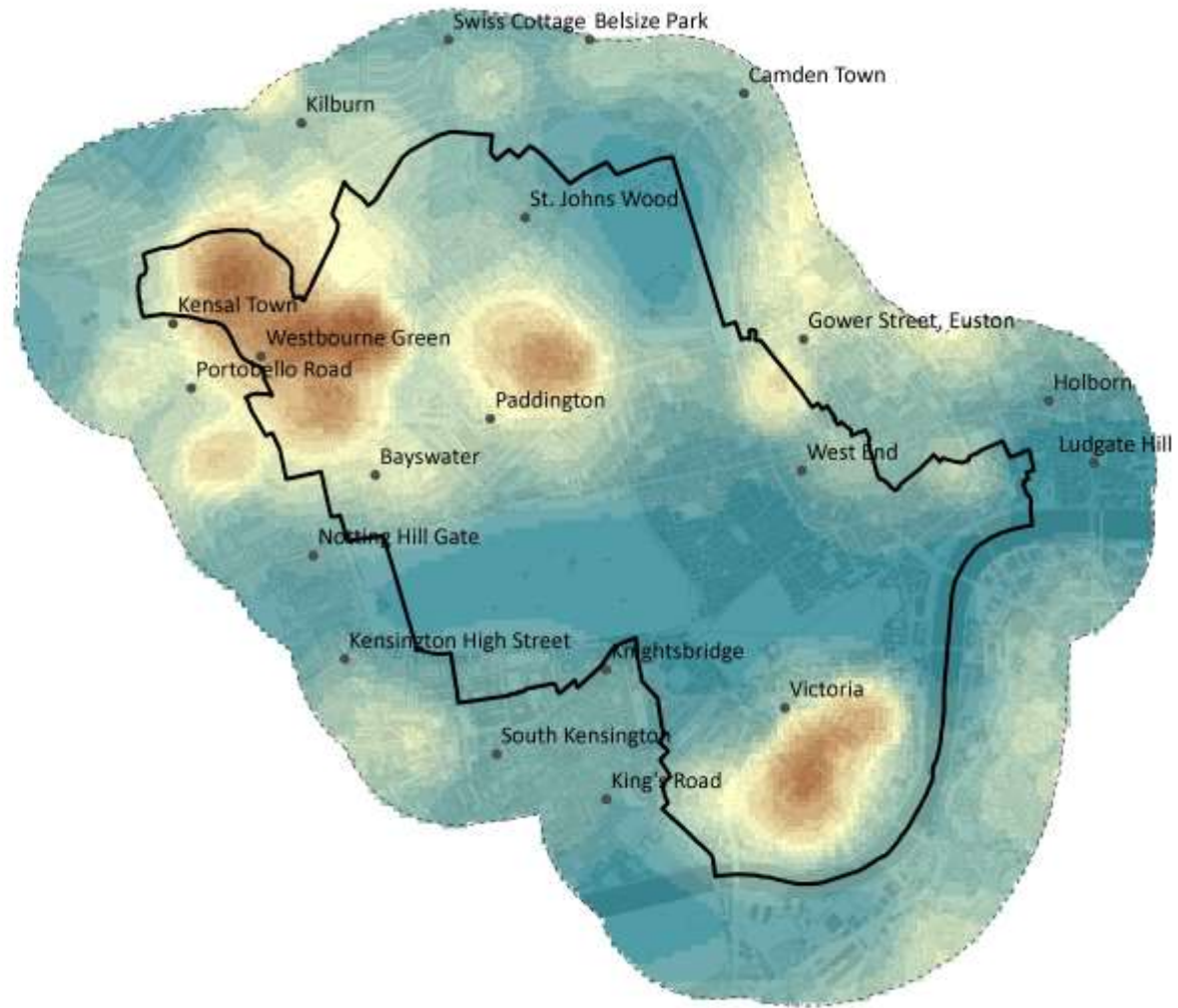
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Risk index: People at home

- Westminster City Council Boundary
- Westminster City Council 1km Buffer

People at home index

- less than 3.2
- 3.2 - 5.9
- 6 - 8.6
- 8.7 - 11.4
- 11.5 - 14.1
- 14.2 - 17.1
- 17.2 - 20.2
- 20.3 - 23.9
- 24 - 28
- 28.1 - 31.8
- 31.9 - 35.3
- 35.4 - 38.6
- 38.7 - 41.6
- 41.7 - 44.9
- 45 plus



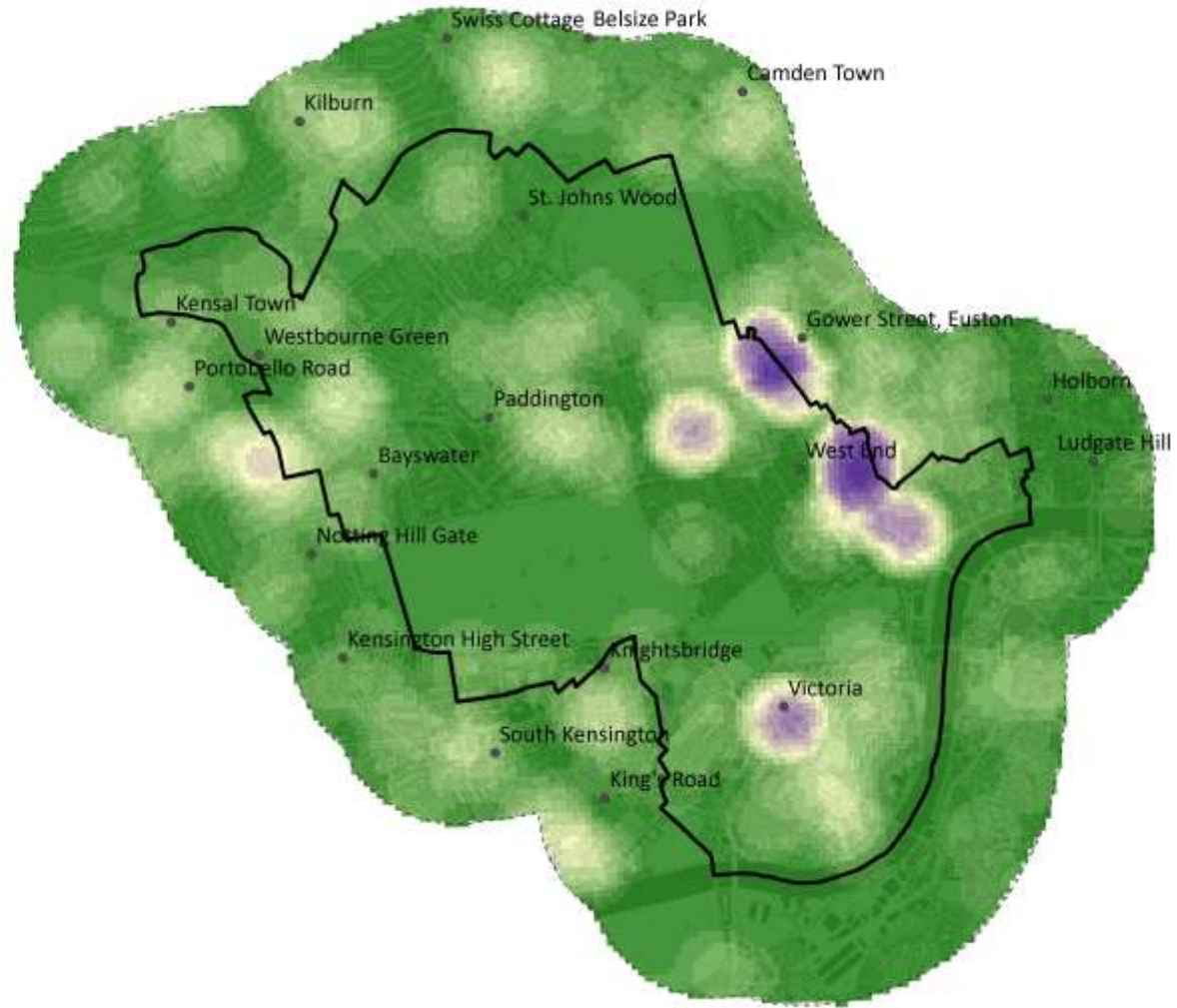
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Risk index: People away from home

- Westminster City Council Boundary
- Westminster City Council 1km Buffer

People away from home index

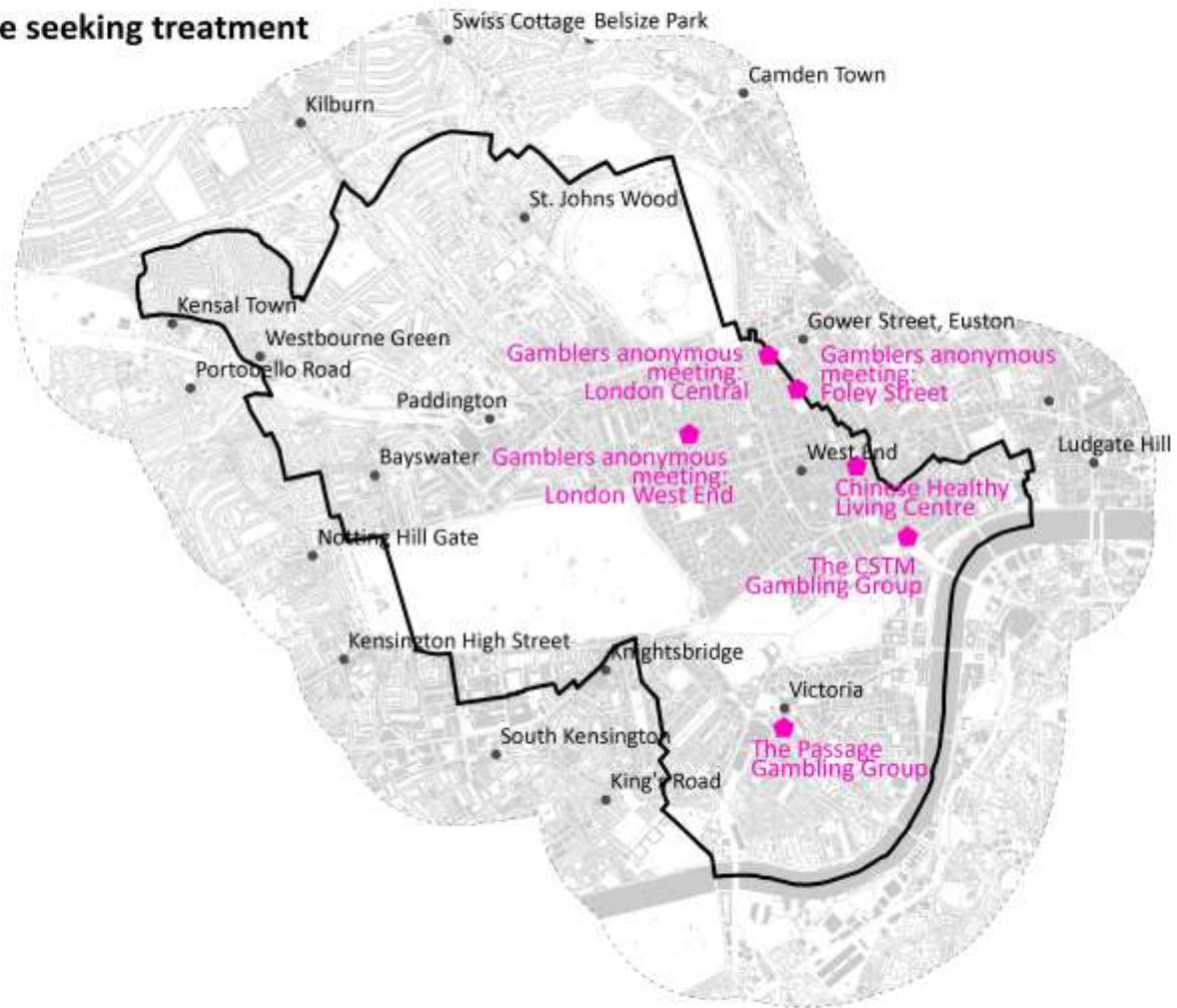
- less than 1.3
- 1.3 - 3.1
- 3.2 - 5.3
- 5.4 - 7.8
- 7.9 - 11
- 11.1 - 14.3
- 14.4 - 18
- 18.1 - 21.8
- 21.9 - 25.3
- 25.4 - 28.6
- 28.7 - 32
- 32.1 - 35.9
- 36 - 41
- 41.1 - 45.7
- 45.8 plus



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Problem gamblers who are seeking treatment

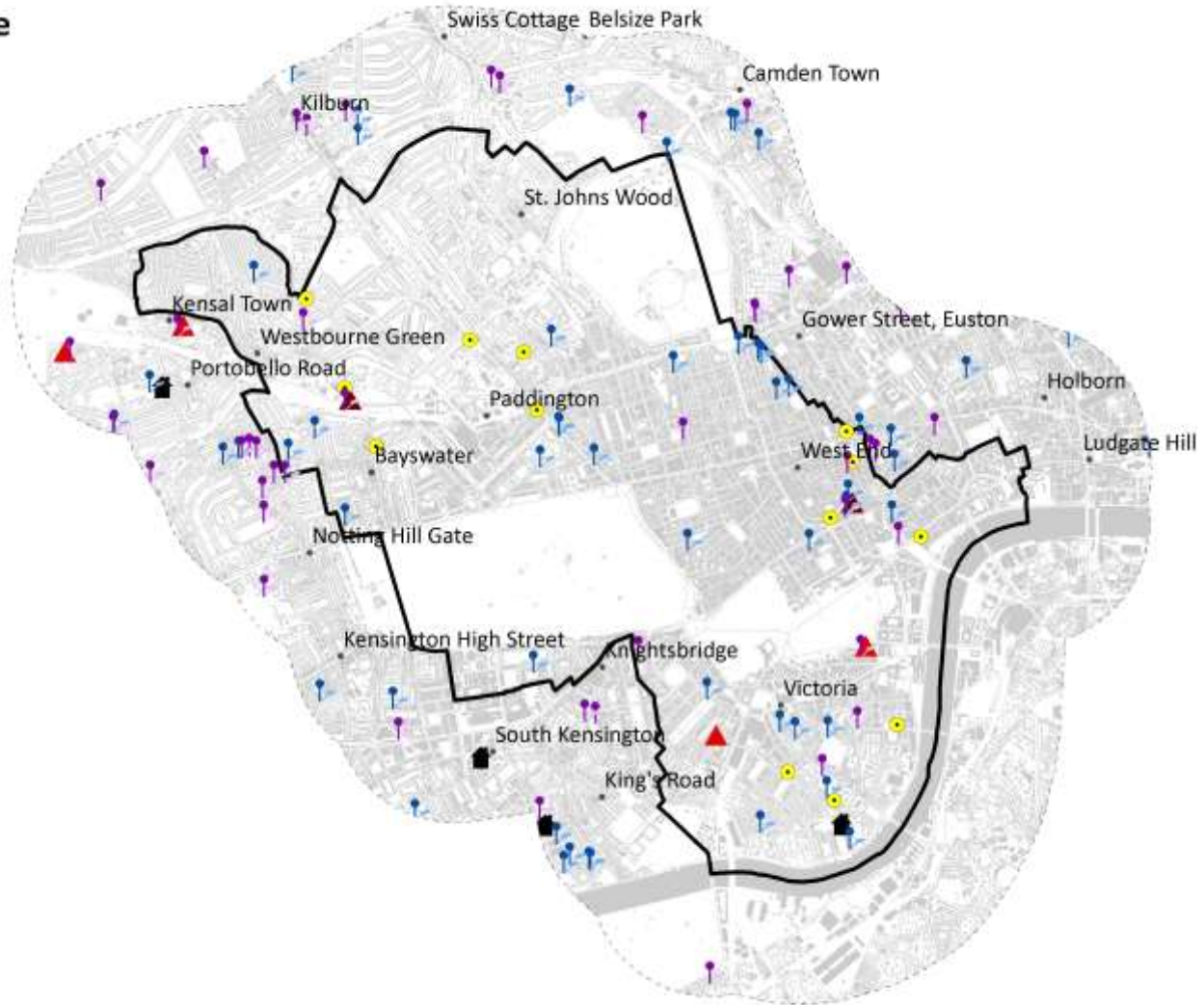
- Westminster City Council Boundary
- Westminster City Council 1km buffer
- Problem gamblers
- treatment and meeting locations, June 2017



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Substance abuse/misuse

- Westminster City Council Boundary
- Westminster City Council 1km buffer
- Drug & alcohol treatment & recovery support, 07/2017
- ▲ Drug & alcohol treatment centre
- ▲ Drug & alcohol treatment centre / needle exchange
- Alcoholics Anonymous meeting
- Narcotics Anonymous meeting
- Needle exchange
- Accommodation for persons who require treatment for substance misuse



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Poor mental health

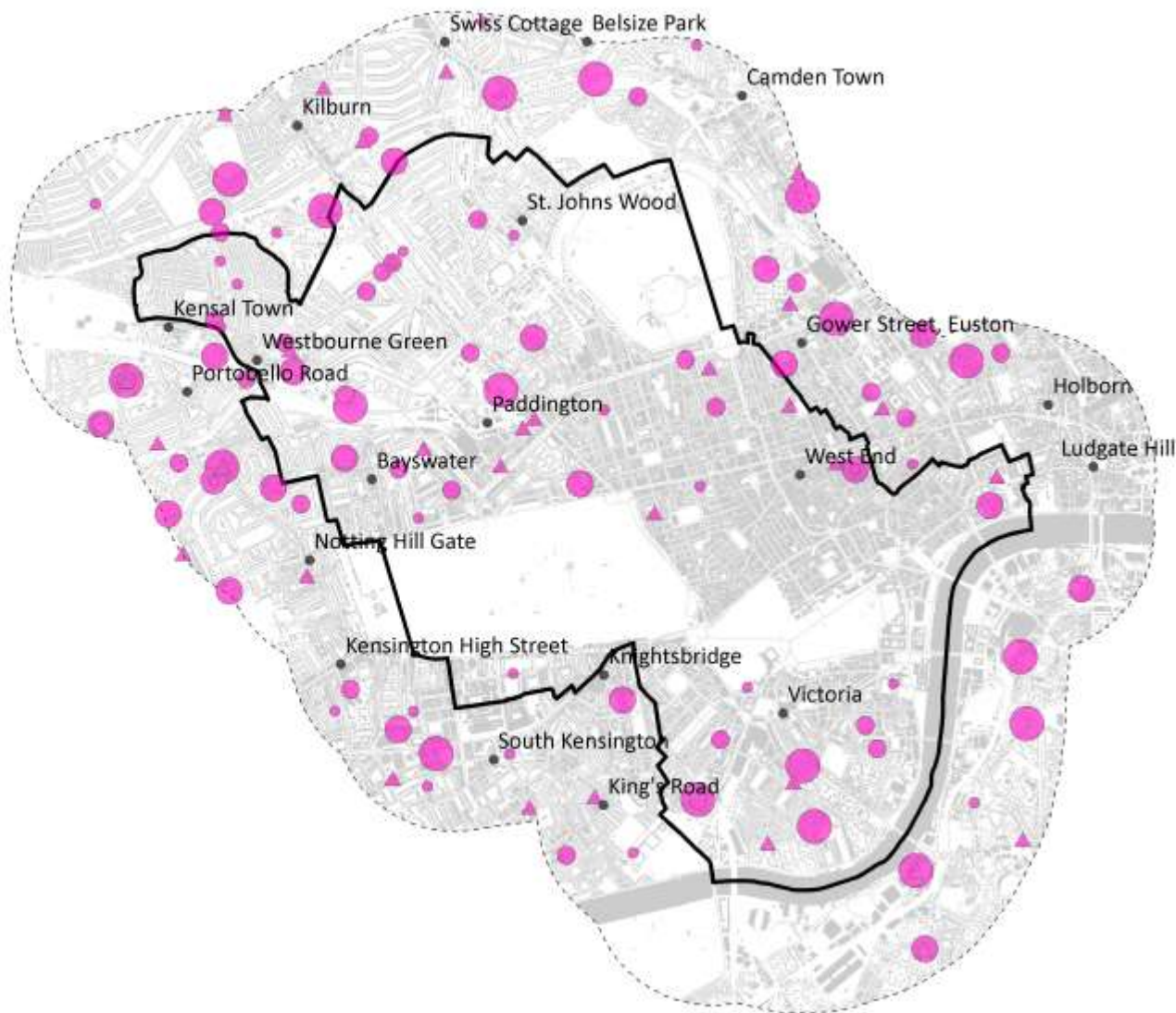
□ Westminster City Council Boundary

□ Westminster City Council 1km buffer

Number of patients recorded on the GP register with schizophrenia, bipolar affective disorder and other psychoses, and other patients on lithium therapy or with depression (18 or over)

April 2015 - March 2016

- ▲ 0
- 1 - 200
- 201 - 400
- 401 - 600
- 601 or more



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Unemployment

- Westminster City Council Boundary
- Westminster City Council 1km buffer

Number of economically active unemployed residents by Census 2011 output areas

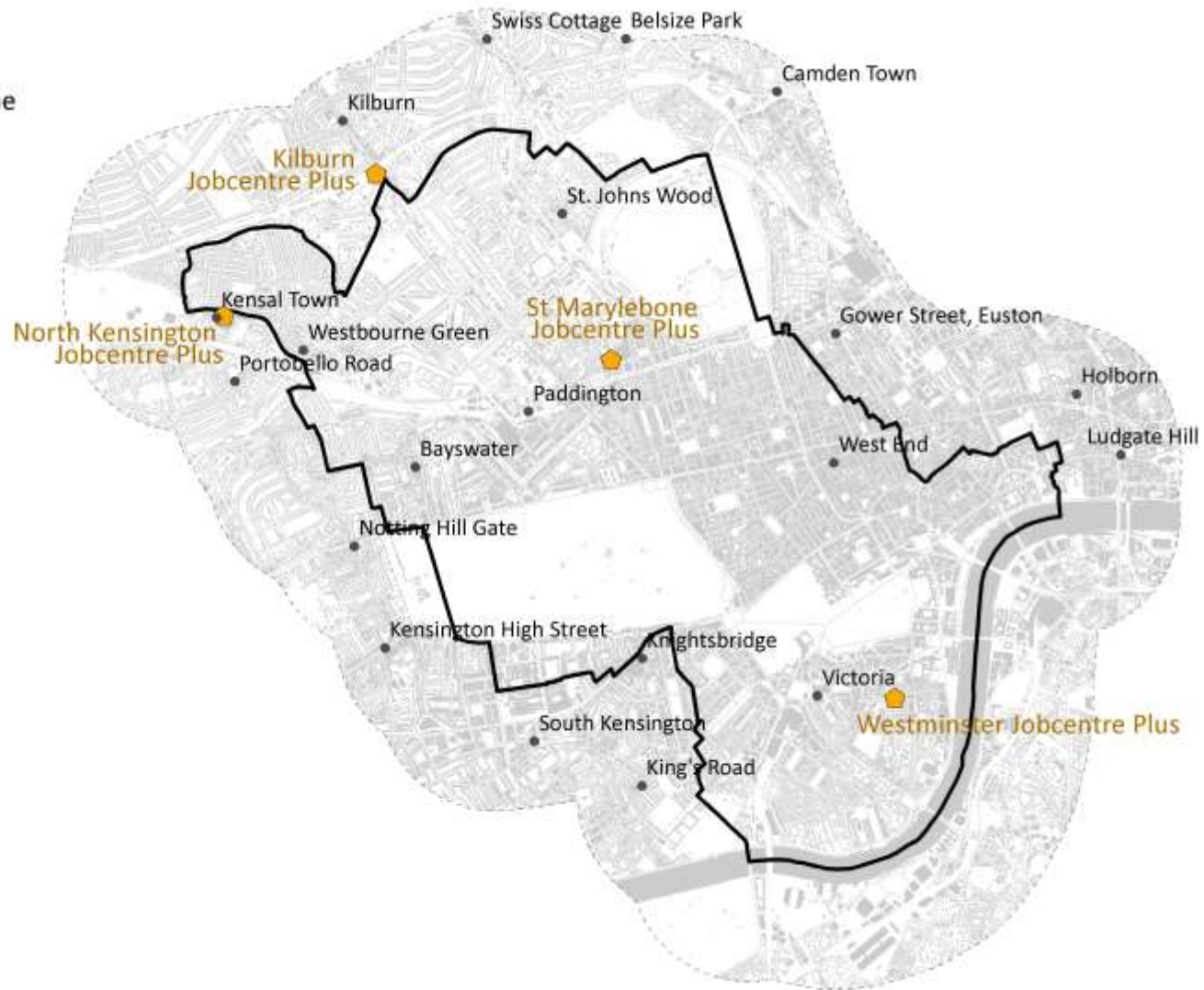
- 0 - 8
- 9 - 16
- 17 - 24
- 25 - 32
- 33 - 51



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Unemployment

- Jobcentre Plus Offices, June 2017
- Westminster City Council Boundary
- Westminster City Council 1km buffer



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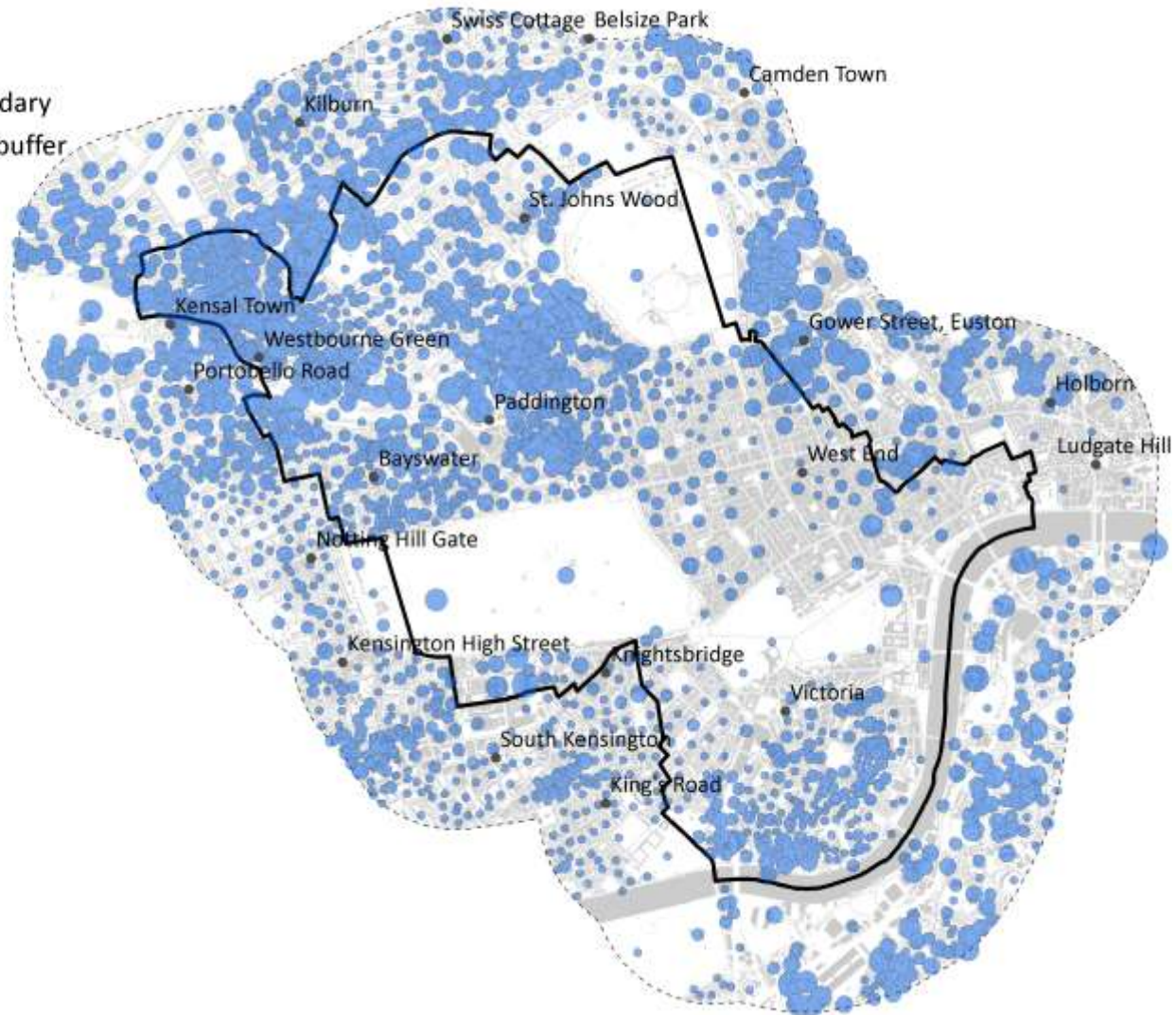
Ethnic groups

- Westminster City Council Boundary
- Westminster City Council 1km buffer

Number of residents from Asian/Asian British, Black/African /Caribbean/Black British, Arab or other ethnic groups

by Census 2011 output areas

- 2 - 50
- 51 - 100
- 101 - 150
- 151 - 220
- 221 - 470



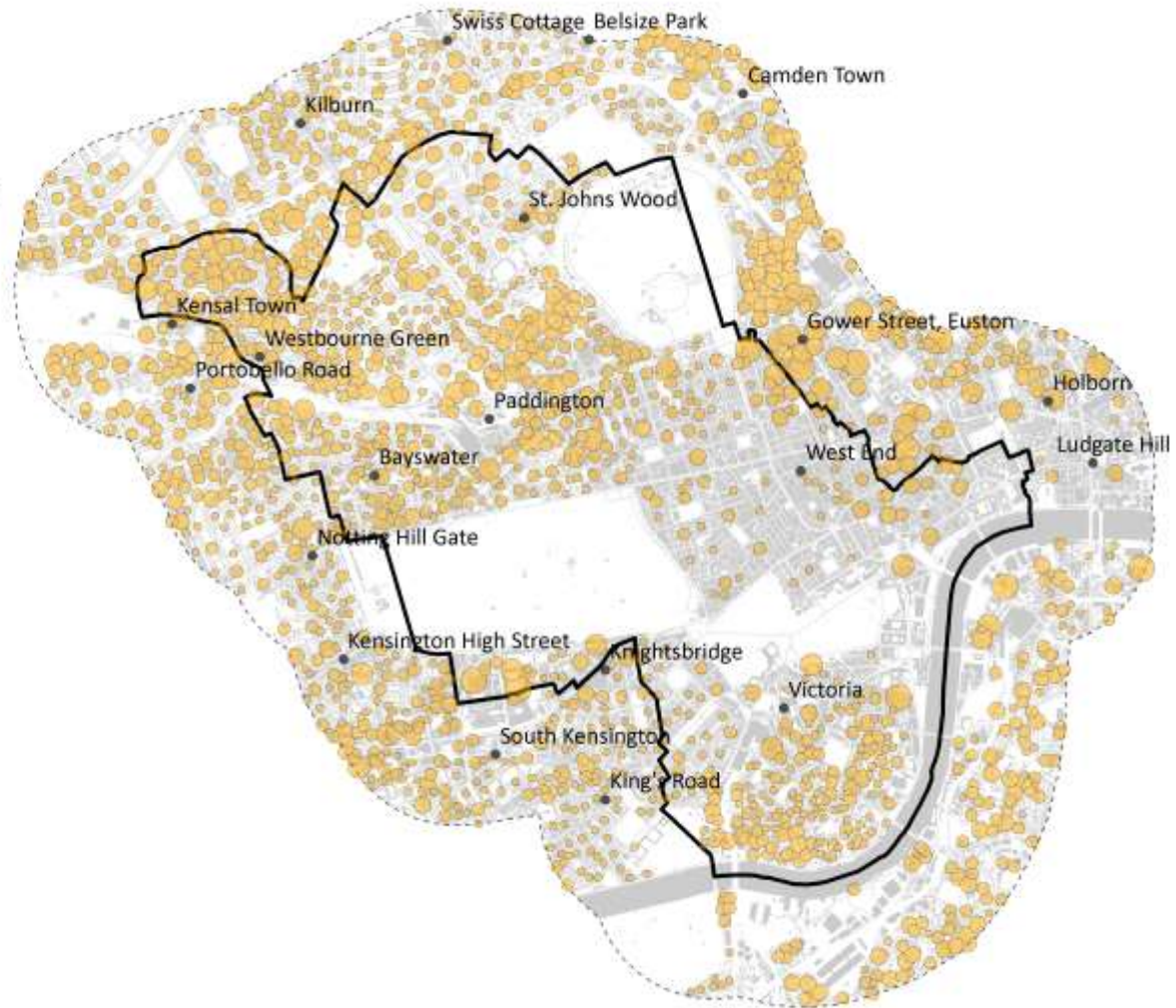
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Youth

- Westminster City Council Boundary
- Westminster City Council 1km buffer

Emerging adults and younger children - number of residents aged 10-24 years by Census 2011 output areas

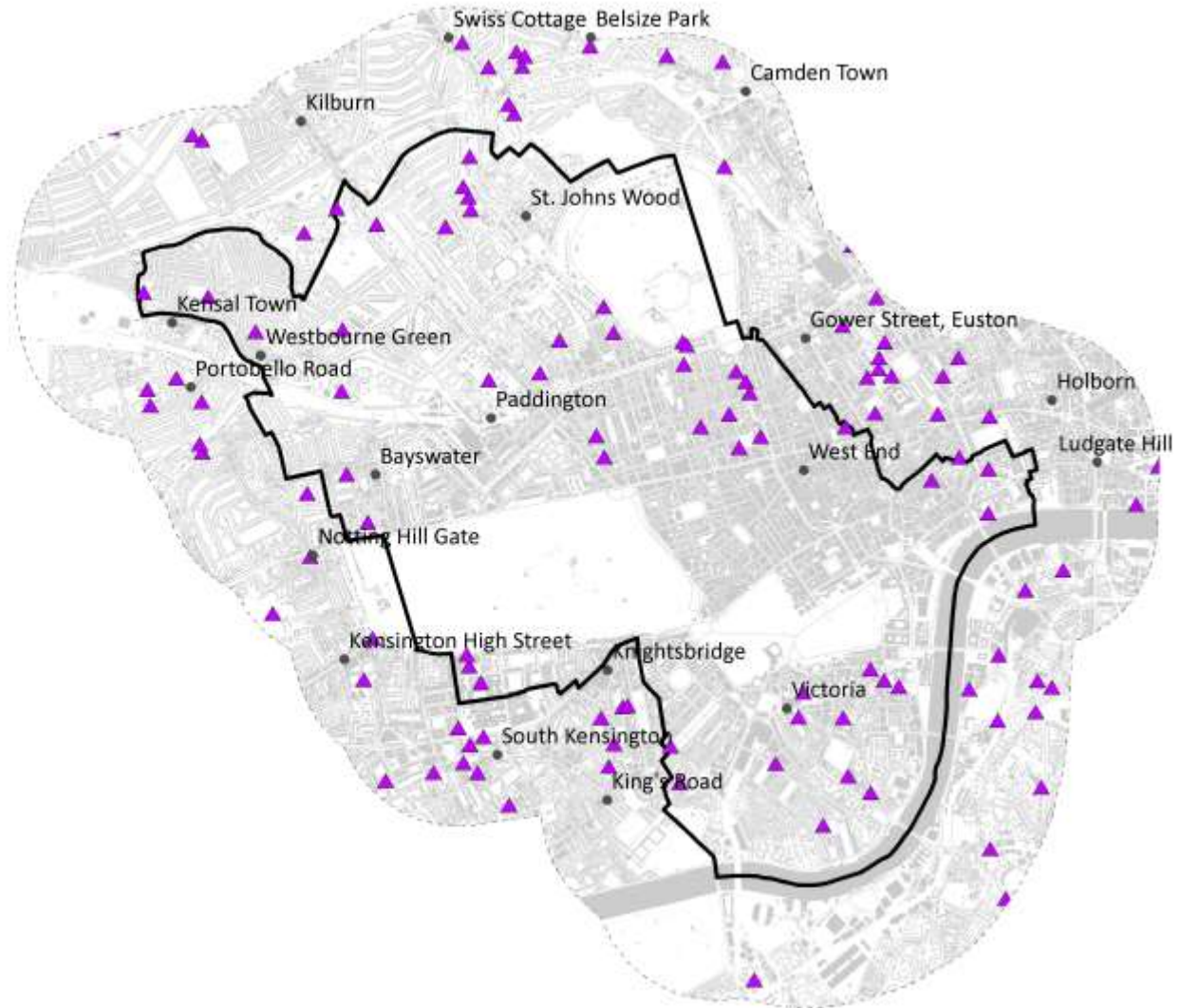
- 0 - 35
- 36 - 65
- 66 - 105
- 106 - 220
- 221 - 479



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Youth

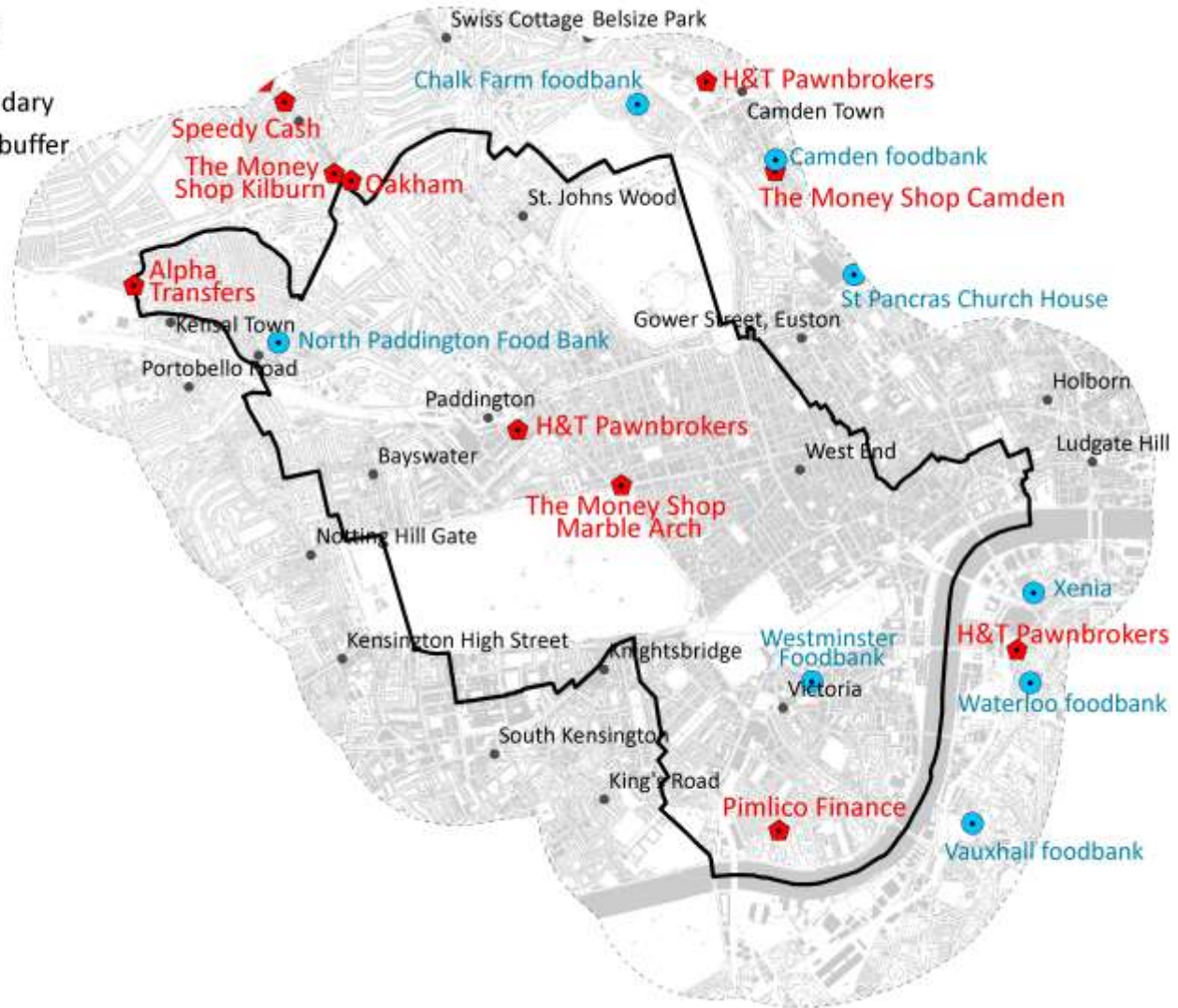
- Westminster City Council Boundary
- ⋯ Westminster City Council 1km buffer
- ▲ Education institutions with students of 13-24 years, June 2017



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Financial difficulties/debt

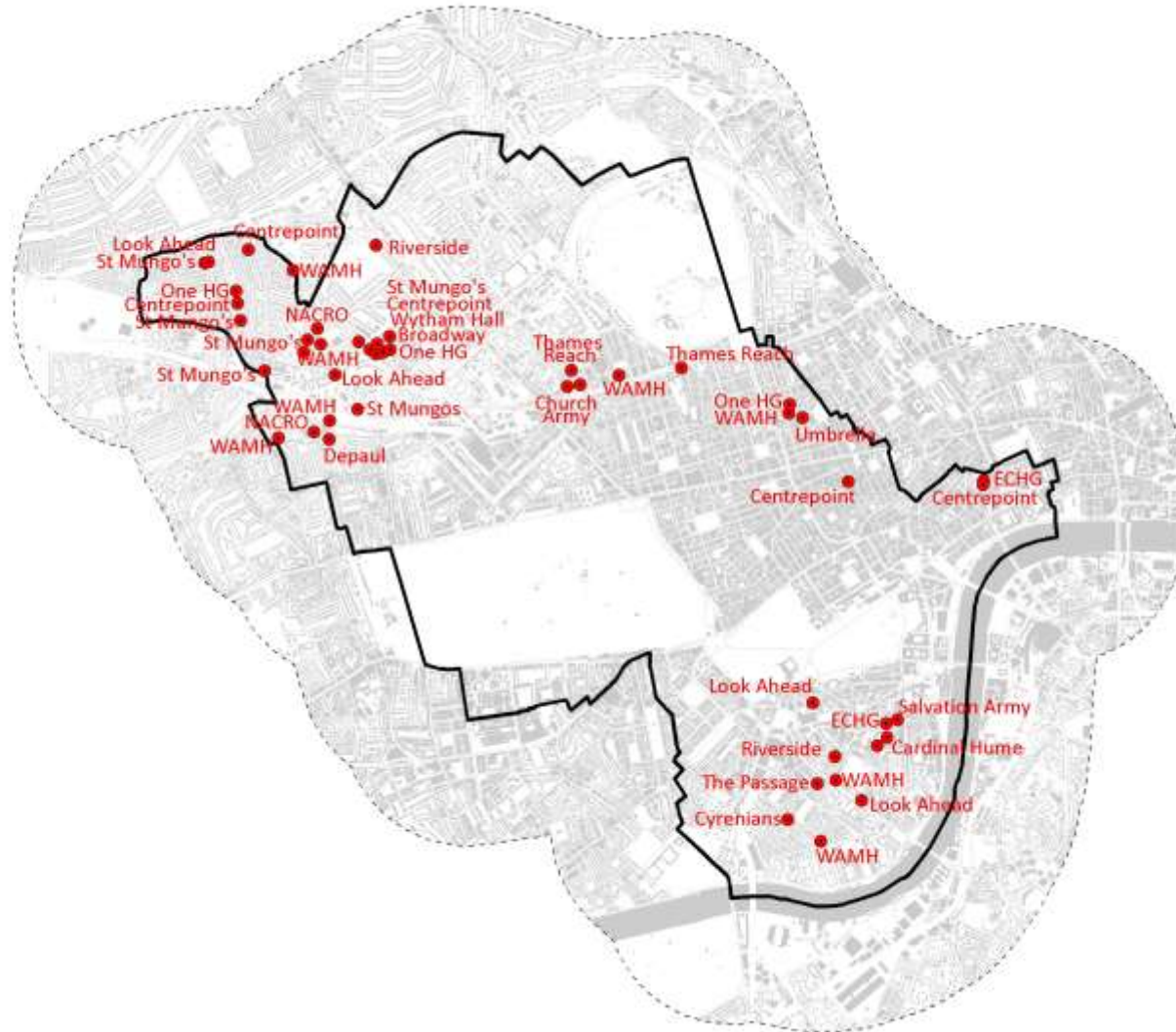
- Westminster City Council Boundary
- ▭ Westminster City Council 1km buffer
- ◆ Payday loan shops, June 2017
- Food banks, June 2017



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Homelessness

- Westminster City Council Boundary
- Westminster City Council 1km buffer
- Westminster
- supported housing projects, 2017



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City of Westminster

Licensing Committee Report

Date	Wednesday 4 th July 2018
Classification	For general release
Title or report	Licensing Service Fee Review (excluding Street Trading regimes) August 2018 - July 2019.
Report of	Director of Public Protection and Licensing
Decision maker	Licensing Committee
Wards involved	All
Financial summary	This report sets out the fee strategy for the licensing regimes where the authority can set a fee to attempt to recover its own costs. The proposed fees will enable the authority to recover its own costs in administering and ensuring compliance within those licensing regimes.
Report author and telephone	Rosalind Hick, Licensing Service Team Manager. Tel: 020 7641 1775

1. Executive Summary

- 1.1 The Licensing Service has brought forward this year's fee review so that it will align with the corporate approach to setting fees and charges. The Licensing Service will bring the fee review report to the Licensing Committee in July each year going forward.
- 1.2 This report sets out the fee review that has been undertaken by the Licensing Service for all licensing regimes where the council can set a fee. However, street trading fees have been excluded from this report and are subject to a separate report. It is proposed that the amended fees set out with Appendix 1 of this report will take effect from the 1st August 2018.
- 1.3 The Licensing Service, following discussions with Lords Cricket Ground, are proposing a new more transparent approach to the safety certificate fees under the Safety of Sports Grounds Act 1975.

2 Recommendations

2.1 The Committee are requested to:

2.1.1 Approve the proposal to align the Licensing Services review of fees with the corporate timeframe for fees and charges so that a report will be brought to the Committee each year in July,

2.1.2 Approve the approach proposed for the fees for safety certificates under the Safety of Sports Grounds Act 1975 as set out in paragraph 6 below, and

2.1.3 Approve the proposed fees attached to this report as Appendix 1 so that they commence on the 1st August 2018.

3 Reasons for Decision

3.1 The Licensing Service has for the past four years brought a report for the review of licensing fees, excluding the fees associated with the street trading licensing regime to the Licensing Committee in November each year. The fees, once agreed would then be payable from the 1st January. This process is currently outside the corporate timeframe for setting the council's fees and charges, which is carried out in July each year. By aligning the fee review with the corporate approach to setting fees and charges it will enable a standardised approach across the council.

3.2 The Licensing Service are proposing a more transparent and collaborative approach to setting the fee level for sports grounds. Because there is only one designated sports ground within Westminster the fee should be calculated in collaboration with the operator, in this case Lords Cricket Ground. This will enable better work planning, transparency in costs and expenditure and enable additional funds to be made available when more officer time is required by Lords.

3.2 The proposed fees, as attached at Appendix 1 will enable the Council to recover its reasonable costs for administering and enforcing the council's licensing regimes.

4 Background

4.1 Fees set by the Licensing Service were last approved in November 2017 and came into effect from the 1st January 2018.

4.2 The Licensing Service undertakes a review annually on the fees which it has the power to set.

4.3 The fees for processing the application are estimated by assessing the time it takes for each step in the process from receipt of application to determination. This will include the time taken by internal consultees, such as the Environmental Health Consultation Team and Registrars. The fee review also takes into account any surpluses and deficits from the previous year.

4.4 The Licensing Service has also identified the estimated cost for the compliance and enforcement function carried out by the council's City Inspectors. The time has been

assigned to different roles and the costs based on hourly rates. There is also a proportion attributed to these fees for management time, which will include the costs associated with running the department and services involved with delivering a function associated with one or more licensing regimes. The fees have then been established by calculating the cost associated with each of the licensing functions.

- 4.5 Although the Council has not received any applications or issued any licences for some regimes it still must set a fee to recover the costs of carrying out that function in the event an application is made. In the cases where the Council has not processed any applications or issued licences the costs have been estimated based on similar types of application process and licences.

5 Fee review and financial implications

- 5.1 The proposed fees have been calculated on a full cost basis which considers both the direct and indirect costs associated with processing, monitoring and enforcing the licences.
- 5.2 When setting fees there is a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level must be set to recover the actual costs incurred by the Council in running the regime but not to make a profit.
- 5.3 Previous fee reviews have not considered any fees and charges associated with any Street Trading regime licensable under the City of Westminster Act 1999. Due to the legislative approach to setting these fees and the need for public consultation these fees will form part of a separate report.
- 5.4 The costs and charges for the Licensing Service have remained reasonably consistent from last year and as a result the majority of fees are unchanged. A handful of the proposed fee levels for this year will see a decrease. The table setting out the current fee, modelled fee, variances and projected income are shown within Appendix 1 to this report.
- 5.5 The projected income over the next year based on the projected volume of applications is £1,056,305. This income will enable the service to recover its costs in administering and enforcing these licensing regimes.
- 5.6 The licensing fees are set in two parts. Part A will be payable with the application and is a non-refundable administration fee for processing the application and carrying out any consultation and determining whether the licence should or should not be granted. If the application is successful, a second fee is payable (called a Part B fee) which covers the costs of monitoring and enforcing the licensing regime.
- 5.7 The fee for Part B covers 12 months of enforcement cost and would be refunded on a monthly pro rata basis if the licence is surrendered.

5.8 The splitting of the fees into two parts has been established following the ruling by the Supreme Court for the Hemming case. This approach is in compliance with the Provisions of Services Regulations 2009.

6 Safety of Sports Grounds

6.1 The council is the licensing authority for the designated sports grounds that are located within Westminster under the Safety of Sports Grounds Act 1975 (1975 Act). Lords Cricket Ground is the only designed sports ground under the 1975 Act.

6.2 The council can determine a fee in respect of an application for the issue, amendment, replacement or transfer of a safety certificate. The fee that the council sets cannot exceed the costs associated for the work actually and reasonably done by or on behalf of the authority in respect of the application under the 1975 Act. The Council began to charge a fee for this work in 2013, when the fee was set based on a fixed number of hours worked by officers.

6.3 Since 2013 it has been found that the time spent by Officers working under the provisions of the 1975 Act on the certificate varies. In some years, the work has exceeded the number of hours that were used to calculate the fee and in others, it has been less. During this period, the amount of money paid by Lords Cricket Ground has been sporadic and has not fully covered the cost of the process. This is due to the discussions during the season on work requirements and cost.

6.4 Following discussions with Lords Cricket Ground it has been proposed to amend the approach that we have previously used to set the fee for their safety certificate. This new approach would establish a planning element prior to the season so that an agreement can be reached on the work that is required under the 1975 for that year. This would encourage engagement and transparency associated with this rather than the current approach where the Licensing Service will set out what it believes will be the required hours with no discussion with certificate holder.

6.5 The proposed fee for the Safety Certificate for Lords Cricket Ground will be based on the number of officer hours that both Lords and the council anticipate will be needed for this coming year. The Licensing Service will provide the certificate holder with a quarterly update on the amount of hours undertaken during that quarter under the 1975 Act.

6.6 If the work exceeds the hours set prior to quarter four that year then an additional fee will be chargeable based on the hourly rate for the officers involved. An agreement will be reached between Lords Cricket Ground and the Licensing Service on the officers required and the costs for those officers prior to payment.

6.7 If the hours are exceeded in quarter four then those additional hours will be recorded and added to the fee level in the next financial year. The certificate holder will be notified of this and advised of the additional hours beyond the set fee level.

- 6.8 If the officers do not work the hours that have been used to calculate the annual fee then the surplus for that year will be carried over to the next financial year. The fee level proposed for that year will take into account any surplus or deficit.
- 6.9 For this year the agreed level of officer hours for a replacement safety certificate will be 80 hours, which is made up of 55 hours for a Senior Licensing Surveyor and 25 hours for an Environmental Health Officer. The total fee for the replacement of a safety certificate will be £8,070. The hourly rate for these officers are £102 for the Senior Licensing Surveyor and £98 for an Environmental Health Officer. The proposed fee levels are provided in Appendix 1 to this report.
- 6.10 The proposed approach will provide a greater level of transparency between the council and Lords and enable better planning for future works carried on at the ground. The annual fee report will also provide an update on the hours used per year.

7 Legal implications

- 7.1 The Council can set its own fees for the regimes listed in Appendix 1 of this report.
- 7.2 All of the regimes (excluding Gambling) are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that any licensing fees charged in relation to “authorisations” must be reasonable and proportionate to the costs of processing applications. As stated above, the Hemmings case confirmed that when setting licence fees, authorities can recover the costs of processing the application and where applications are successful, the costs of monitoring and enforcing the licensing regime as a whole, provided such costs are charged in two parts (part A and part B). The proposed fees must not be used to make a profit.
- 7.3 If the proposed fee structure results in a surplus or loss for the financial year there will be an appropriate reduction or increase in fees as the case may be for the following financial year.

Appendices

Appendix 1 – Proposed Fees August 2018 – July 2019

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mrs Ros Hick, Licensing Service Team Manager

Background Papers

Licensing Fee Review Excel Spreadsheet

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2018 Licensing Service Type 2 Licensing Regime Fees (Excluding Street Trading)

Fee Regime Type*	Licence/Permission Type	Type	Current Fee	Modelled cost to the council	Statutory Limit	Fee to be set	Change in Fee	Variance	Income Level (proposed fees)	Predicted Volume
Type 2	Gambling - Casino - Gambling Act 2005	Annual Fee	£3,000	£3,009	£3,000	£3,000	£0	0%	£63,000	21
		Variation	£2,000	£2,017	£2,000	£2,000	£0	0%	£8,000	4
		Transfer	£335	£335	£1,350	£335	£0	0%	£335	1
		Re-installment	£335	£335	£1,350	£335	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£0	0
		Change of Details	£50	£116	£50	£50	£0	0%	£0	0
	Bingo Premises - Gambling Act 2005	New	£3,500	£3,515	£3,500	£3,500	£0	0%	£3,500	1
		Annual Fee	£1,000	£1,618	£1,000	£1,000	£0	0%	£0	0
		Variation	£1,750	£1,763	£1,750	£1,750	£0	0%	£1,750	1
		Transfer	£344	£344	£1,200	£344	£0	0%	£0	0
		Re-instatement	£344	£344	£1,200	£344	£0	0%	£0	0
		Provisional Statement	£3,500	£3,510	£3,500	£3,500	£0	0%	£0	0
		License App	£378	£378	£1,200	£378	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£0	0
	Change of Details	£50	£116	£50	£50	£0	0%	£0	0	
	Gambling Betting (Other) - Gambling Act 2005	New	£3,000	£3,014	£3,000	£3,000	£0	0%	£9,000	3
		Annual Fee	£600	£1,493	£600	£600	£0	0%	£69,000	115
		Variation	£1,500	£1,506	£1,500	£1,500	£0	0%	£1,500	1
		Transfer	£378	£378	£1,200	£378	£0	0%	£0	0
		Reinstatement	£378	£378	£1,200	£378	£0	0%	£0	0
		Provisional Statement	£3,000	£3,010	£3,000	£3,000	£0	0%	£0	0
		License App	£378	£378	£1,200	£378	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£22	1
		Change of Details	£50	£116	£50	£50	£0	0%	£0	0
	Betting Tracks - Gambling Act 2005	New	£2,500	£2,508	£2,500	£2,500	£0	0%	£0	0
		Annual Fee	£1,000	£1,618	£1,000	£1,000	£0	0%	£1,000	1
		Variation	£1,250	£1,259	£1,250	£1,250	£0	0%	£0	0
		Transfer	£378	£378	£950	£378	£0	0%	£0	0
		Reinstatement	£373	£373	£950	£373	£0	0%	£0	0
		Provisional Statement	£2,500	£2,507	£2,500	£2,500	£0	0%	£0	0
		License App	£378	£378	£950	£378	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£0	0
	Change of Details	£50	£116	£50	£50	£0	0%	£0	0	
	Family Entertainment Centre - Gambling Act 2005	New	£2,000	£2,101	£2,000	£2,000	£0	0%	£2,000	1
		Annual Fee	£750	£1,516	£750	£750	£0	0%	£0	0
		Variation	£1,000	£1,012	£1,000	£1,000	£0	0%	£0	0
		Transfer	£378	£378	£950	£378	£0	0%	£0	0
		Reinstatement	£378	£378	£950	£378	£0	0%	£0	0
		Provisional Statement	£2,000	£2,065	£2,000	£2,000	£0	0%	£0	0
		License App	£378	£378	£950	£378	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£0	0
	Change of Details	£50	£116	£50	£50	£0	0%	£0	0	
	Adult Gaming Centre - Gambling Act 2005	New	£2,000	£2,202	£2,000	£2,000	£0	0%	£0	0
		Annual Fee	£1,000	£1,516	£1,000	£1,000	£0	0%	£11,000	11
		Variation	£1,000	£1,012	£1,000	£1,000	£0	0%	£0	0
		Transfer	£378	£378	£1,200	£378	£0	0%	£378	1
		Reinstatement	£373	£373	£1,200	£373	£0	0%	£0	0
		Provisional Statement	£2,000	£2,102	£2,000	£2,000	£0	0%	£0	0
		License App	£378	£378	£1,200	£378	£0	0%	£0	0
		Duplicate	£22	£22	£25	£22	£0	0%	£0	0
Change of Details	£50	£116	£50	£50	£0	0%	£0	0		
Temporary Use Notices - Gambling Act 2005	New	£215	£215	£500	£215	£0	0%	£0	0	
	Duplicate	£22	£22	£25	£22	£0	0%	£0	0	
Fireworks - Fireworks Regulations 2004	New	£322	£322	£500	£322	£0	0%	£0	0	
	Renewal	£322	£322	£500	£322	£0	0%	£0	0	
Total									£170,485	

* The fee types relate to the powers for setting the fee levels.
 Type 1 regimes - statutory set fees with no powers to amend
 Type 2 regimes - statutory cap on the fee that can be set by the LA
 Type 3 regimes - no statutory restriction on fee level except for recovering reasonable costs

2018 Licensing Service Type 3 Licensing Regime Fees (Excluding Street Trading)

Fee Regime Type*	Licence/Permission Type	Type	Current Fee	Modelled Cost To Council/Fee To Be Set	Change In Fee	Variance	Part A	Part B	Income Level (proposed fees)	Predicted Volume
Type 3	Auctions - Greater London Council (General Powers) Act 1984, Part 6	New	£774	£774	£0	0%	£674	£100	£6,190	8
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Animal Boarding Establishments - Animal Boarding Establishments 1963	New	£1,164	£952	£-212	-22%	£888	£64	£0	0
		Renew	£559	£453	£-106	-23%	£353	£100	£0	0
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Dangerous Wild Animals - Dangerous Wild Animals Act 1976	New	£994	£695	£-299	-43%	£595	£100	£0	0
		Renewal	£333	£182	£-151	-83%	£100	£82	£0	0
		Duplicate	£22	£22	£0	2%	£22	£0	£0	0
	Dog Breeding Establishments - Breeding of Dogs Act 1973	New	£820	£608	£-212	-35%	£500	£100	£0	0
		Renewal	£500	£393	£-107	-27%	£293	£100	£0	0
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Exhibitions (Prescribed venues) - Greater London Council (General Powers) Act 1966	New	£855	£855	£0	0%	£755	£100	£0	0
		Renewal	£363	£363	£0	0%	£263	£100	£727	2
		Duplicate	£22	£22	£0	0%	£22	£0	£22	1
	Marriage Approvals - Marriages and Civil Partnerships (Approved Premises) Regulations 2005	New	£1,176	£1,176	£0	0%	£1,076	£100	£23,520	20
		Renewal	£815	£815	£0	0%	£715	£100	£25,269	31
		Change of Resp. person	£82	£82	£0	0%	£82	£0	£163	2
		Amend App	£198	£198	£0	0%	£198	£0	£0	0
		Change of Details	£198	£198	£0	0%	£198	£0	£0	0
	Performing Animals - Performing Animals (Regulations) Act 1925	Duplicate	£22	£22	£0	0%	£22	£0	£0	0
		New	£698	£492	£-206	-42%	£442	£50	£0	0
		Variation	£368	£368	£0	0%	£368	£0	£0	0
		Inspection	£291	£291	£0	0%	£291	£0	£0	0
		Copy of Register	£7	£7	£0	0%	£7	£0	£0	0
	Pet Shops - Pet Animals Act 1951	Duplicate	£22	£22	£0	0%	£22	£0	£0	0
		New	£1,258	£1,045	£-213	-20%	£945	£100	£0	0
		Renewal	£625	£518	£-107	-21%	£418	£100	£0	0
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Riding Establishments - Riding Establishments Act 1964	New	£1,417	£983	£-434	-44%	£883	£100	£0	0
		Renewal	£966	£748	£-218	-29%	£648	£100	£1,496	2
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Zoo - Zoo Licencing Act 1981	New	£27,473	£27,473	£0	0%	£27,473	£0	£0	0
		Renewal	£36,018	£36,018	£0	0%	£36,018	£0	£0	0
		Exemption Request	£2,141	£2,141	£0	0%	£2,141	£0	£0	0
		Alteration	£2,213	£2,213	£0	0%	£2,213	£0	£0	0
		Transfer	£189	£189	£0	0%	£189	£0	£0	0
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Hypnotism - Hypnotism Act 1952	New	£527	£527	£0	0%	£427	£100	£0	0
		Renewal	£204	£204	£0	0%	£104	£100	£0	0
		Duplicate	£22	£22	£0	0%	£22	£0	£0	0
	Sports Ground - Safety at Sports Grounds Act 1975	New	£8,970	£8,970	£0	0%	£8,970	£0	£8,970	1
		Replacement	£8,736	£8,070	£-666	-8%	£8,070	£0	£0	0
		Transfer	£230	£230	£0	0%	£230	£0	£0	0
		Duplicate	£36	£36	£0	0%	£36	£0	£0	0
		Hourly charge (Snr Lic Surveyor)	N/A	£102	£102	N/A	£102	£0	N/A	N/A
Hourly charge (EHO)	N/A	£98	£98	N/A	£98	£0	N/A	N/A		
Licensed Sex Shops/ Cinema/ Hostess Bar - Local Government (Miscellaneous Provisions) Act 1982	New	£4,322	£4,322	£0	0%	£2,060	£2,262	£8,644	2	
	Renewal	£3,361	£3,361	£0	0%	£1,099	£2,262	£33,612	10	
	Variation	£1,000	£1,000	£0	0%	£1,000	£0	£0	0	
	Transfer	£333	£333	£0	0%	£333	£0	£666	2	
	Para 7 Waiver	£724	£724	£0	0%	£724	£0	£0	0	
	Duplicate	£22	£22	£0	0%	£22	£0	£0	0	
Sexual Entertainment Venues - Local Government (Miscellaneous Provisions) Act 1982	New	£3,981	£3,981	£0	0%	£1,719	£2,262	£11,944	3	
	Renewal	£3,278	£3,278	£0	0%	£1,016	£2,262	£52,446	16	
	Variation	£1,078	£1,078	£0	0%	£1,078	£0	£4,312	4	
	Transfer	£302	£302	£0	0%	£302	£0	£302	1	
	Para 7 Waiver	£707	£707	£0	0%	£707	£0	£0	0	
	Duplicate	£22	£22	£0	0%	£22	£0	£0	0	
Scrap Metal Dealers (Site) - Scrap Metal Dealers Act 2013	New	£516	£516	£0	0%	£416	£100	£0	0	
	Renewal	£272	£272	£0	0%	£172	£100	£0	0	
	Variation	£322	£322	£0	0%	£322	£0	£0	0	
	Duplicate	£22	£22	£0	0%	£22	£0	£0	0	
Scrap Metal Dealers (Collector) - Scrap Metal Dealers Act 2013	New	£602	£602	£0	0%	£502	£100	£0	0	
	Renewal	£272	£272	£0	0%	£172	£100	£0	0	
	Variation	£236	£236	£0	0%	£236	£0	£0	0	
	Duplicate	£22	£22	£0	0%	£22	£0	£0	0	
Special Treatment Premises - London Local Authorities Act 1991	New (high risk)	£2,457	£2,457	£0	0%	£1,365	£1,092	£0	0	
	New (low risk)	£2,346	£2,346	£0	0%	£1,254	£1,092	£281,481	120	
	Renewal (high risk)	£1,777	£1,777	£0	0%	£685	£1,092	£0	0	
	Renewal (Low Risk)	£1,777	£1,777	£0	0%	£685	£1,092	£406,851	229	
	Transfer	£196	£196	£0	0%	£196	£0	£2,741	14	
	Variation	£617	£617	£0	0%	£617	£0	£16,053	26	
	Duplicate	£65	£65	£0	0%	£65	£0	£65	1	
	Removal of treatment	£185	£185	£0	0%	£185	£0	£0	0	
	Renewal of provisional	£185	£185	£0	0%	£185	£0	£0	0	
	Confirmation of provisional	£1,270	£1,270	£0	0%	£178	£1,092	£0	0	
Change of Details	£116	£116	£0	0%	£116	£0	£348	3		
Total									£885,820	

* The fee types relate to the powers for setting the fee levels.
 Type 1 regimes - statutory set fees with no powers to amend
 Type 2 regimes - statutory cap on the fee that can be set by the LA
 Type 3 regimes - no statutory restriction on fee level except for recovering reasonable costs



City of Westminster

Licensing Committee Report

Date:	Wednesday 4 th July 2018
Classification:	For General Release
Title:	Fees and charges for street trading on a pitch at a market in Westminster 2018/19
Report of:	Director of Public Protection and Licensing
Wards Affected:	All
Financial Summary:	This report sets out the fee strategy to be consulted on for street trading on a market where the Authority can set a fee to recover its costs in relation to a licence application and services provided for administration, cleansing, waste disposal and enforcement.
Report Author and Contact Details:	Ms Rosalind Hick, Licensing Team Manager. Tel: 020 7641 1775

1 Executive Summary

- 1.1 The report seeks approval to undertake statutory consultation on a revised set of fees for the application for a licence for street trading on a pitch in market in Westminster, and the charges applied for each day that the licence is in force. The proposed fees and charges will enable the Council to recover its costs in managing and administering the Street Trading licence regime on markets across the City.
- 1.2 The proposals set out in this report aim to provide a simple fee model that will achieve cost recovery fairly across all traders, encourage local and new enterprise and demonstrate commitment to our local residents through the opportunity for concessions.
- 1.3 To help shape the future of our markets and to make sure they continue to thrive and serve their neighbourhoods, the council will shortly be launching a markets consultation, which will seek the views of residents, shoppers, traders and local businesses on how we can:



- Keep markets at the heart of their communities, providing a fantastic offer to local residents.
 - Encourage more non-street food traders to open market stalls, bringing more diversity to Westminster's markets.
 - Attract more tourists where this would have a positive impact on the revenue of the market traders.
 - Recruit the next generation of traders and boost training on topics such as customer service, display, taking card payments and creating an online presence.
 - Provide a wider selection of goods, regular new products and events.
 - Become more sustainable by increasing recycling, reducing plastic, offering in-season food, and increasing biodegradable packaging and reusable energy
- 1.4 Officers are proposing to undertake consultation on the market strategy at the same time as the statutory consultation on the fee and charges review. This approach enables the consultation to be extended beyond the minimum 28 day notice period set out in section 22 (9) of The Act.
- 1.5 Consultation on fees and charges will allow for a realistic and open dialogue in terms of the need for the council to cost recover on key services provided to our markets. It will seek views on how we can achieve a more sustainable charging system, presenting a number of options for consideration, which recognise the diversity of circumstances faced by traders across the City, with the aim of keeping fees and charges low to ensure that Westminster remains a great place to start and grow a small business.
- 1.5 There are eight regular street markets within the City of Westminster, totalling approximately 400 pitches – Berwick Street, Church Street, Maida Hill Place, Strutton Ground, Tachbrook Street, Rupert Street, Pimlico Road and Marylebone Road.
- 1.6 In a rapidly evolving business environment, the council is committed to supporting each one of its City's markets to continue to hold their own with other markets, on-line retail and other attractions, and provide what local residents want.
- 1.7 Following the consultation on the proposed fees and charges, all consultation responses will be considered and a full report will be presented to the Licensing Committee in November 2018 for a decision on the implementation of the new fees and charges. Any licence holder or representative body who raises a representation through the consultation process will have the opportunity to also make their representation to the Licensing Committee.



- 1.8 The proposed market strategy consultation will scope ideas for other discretionary services that traders may find beneficial. Should the majority of traders on a market wish an additional service to be provided, this could then be covered under section 22 (5) of the Act at a future date. Future consideration will need to be given to whether Westminster charges for these discretionary services or not.

2. Background

- 2.1 The criteria for determining charges for street trading in Westminster is set out in section 22 of the City of Westminster Act 1999 (The Act). This sets out the basis on which the Council may choose to recover certain costs in relation to street trading by way of fees and charges.
- 2.2 The last full fee review in relation to street trading was taken to Licensing Sub Committee on the 15 June 2006. This report covered all aspects of street trading.
- 2.3 Within the Act, the council is permitted to recover certain costs associated with the administration of any street trading application, that is, the Application Fee, and costs for cleansing, waste disposal and enforcement, that is the Daily Charge. Any fee review can only seek to cover these provisions.
- 2.4 The current position is that existing fees do not represent cost recovery and there is an accumulated deficit on the street trading account. In effect, the council is subsidising street trading activity across markets. This is in the context of a challenging financial climate for the Local Authority.
- 2.5 This fee review demonstrates that there will need to be an uplift in some fees to enable cost recovery on an annual basis, although the percentage increases are high as the current weekday daily charge is £10.61. This is without consideration of any previous deficits, which although referenced, have not been included in this review.
- 2.6 The decision of the Supreme Court in April 2015 in Hemming vs Westminster City Council in relation to fee setting and the recovery of costs has been applied in full to this fee review proposal.

3. Recommendations

- The Committee give their approval;
- 3.1 For consultation to be undertaken with relevant stakeholders on:
 - a) The proposed fee for an Application for a licence to trade from a pitch in a street market in Westminster,



- b) The options for the Daily Charge for each day that licence is in force and of the right for representations to be made in accordance with the statutory procedure set out in the City of Westminster Act 1999;
- 3.2 For the statutory consultation on the proposed fees and charges to take place at the same time as the consultation on the development of a market strategy.
- 3.3 For the proposed fees and charges to be brought back to Licensing Committee in November 2018 following full consultation, with recommendations for implementation.

4 Principles for setting fees and charges

- 4.1 The criteria for determining fees and charges for street trading in Westminster is set out in section 22 of the Act. Within this legal framework, we want to make sure the proposed review of fees and charges is based on the following five principles:

Fairness. We will be fair by writing off the current historic deficit, which has accumulated due to the length of time since the last full fee increase. We will not factor this into this fee review.

Cost recovery. We will only set fees and charges that recover the costs incurred by the council in managing markets (including administration, cleansing, waste collection and enforcement).

Transparency. We will keep fees simple so that there is a transparent approach, which is easy to understand.

Supporting local enterprise. We will support local enterprises by making sure fees and charges are tailored to the individual circumstances of street traders.

Listening to everyone's views. By consulting on fees and charges as part of a wider consultation on the overall future of markets, we will make sure that we listen to everyone's views – from residents to traders, shoppers and local businesses.

- 4.2 These principles will underpin our approach to consulting on fees and charges for street trading licences, making sure that our approach achieves cost recovery, is fair to all traders, and encourages local and new enterprise as part of our wider strategy to keep thriving local markets at the heart of our communities.

5 Summary of Proposed Changes

- 5.1 The proposals set out in this report aim to provide a simple fee model that will achieve cost recovery fairly across all traders, encourage local and new enterprise and demonstrate commitment to our local residents through the opportunity for concessions.



- 5.2 Section 22 of The City of Westminster Act provides for the recovery of the reasonable costs associated with dealing with applications – the Application Fee. It also provides for the Council to recover from licence holders the reasonable costs associated with cleansing (including waste collection) and those costs associated with the administration and the enforcement of the provisions of the Act – the Daily Charge.
- 5.3 The current fees, set out in **Appendix A**, have not increased since 2006 and are not in line with the reasonable costs associated with the assessment of the application and the granting of the licence, and any reasonable costs associated with administration, cleaning, waste disposal and enforcement.
- 5.4 There is currently a deficit on the street trading account. This deficit has accumulated due to the length of time since the last full fee increase. It is recognised that were the council to recover this accumulated deficit this could place significant financial pressure on existing traders. Therefore, the current proposed fees do not include the recovery of this deficit. For context, the deficit built over the last four years is in excess of £1million.
- 5.5 The proposed fees and charges, attached to this report as **Appendix B (Application Fee)** and **Appendix C (Daily Charge)** will enable the council to recover its reasonable costs.
- 5.6 The proposed charges standardise the rate across trading days. They represent an uplift on the cheapest trading days (Monday – Thursday). The increase from the existing charges for each of the options is set out in **Appendix D**. To indicate how the uplift in fees may impact on traders, a typical trading pattern, with the change in charges is shown in **Appendix E**
- 5.7 As part of the fee and charges review process, in order to understand how Westminster compares with other Local Authority run markets in London, benchmarking has been carried out. It is important to note that although this provides context, benchmarking does not provide justification for fees and charges set by Westminster; these must be in relation to the costs prescribed in section 22 of the Act. For information, the costs for street trading licences at neighbouring London Local Authority run markets are set out in **Appendix F**

6 Application Fee

- 6.1 The proposed fees for applications, set out in **Appendix B** are established by assessing the work of the officers in the Licensing Service who are involved in processing and determining an application.
- 6.2 The fees are calculated by assessing the time it takes for each step in the application process. The time has been assigned a cost based on hourly rates. There is also a proportion attributed for management time.



- 6.3 For some applications, such as those where the applicant will be selling high risk food, Environmental Health will need to spend more time on the application to ensure that the trader adequately meets food safety requirements. The proposed fees are different for applications to sell non-food, fresh produce or hot take away food.
- 6.4 **Concessions** - In line with Street Trading Policy 2013, a 50% concession is proposed, for applications from **start-up businesses**. The definition used will be a business which has been registered at Companies House, HMRC or registered self-employed for less than 12 months before an application is made. Evidence will be accepted in the form of Companies House or HMRC registration. For sole traders the Unique Taxpayer Reference Number will be sufficient. Applications from those applying for a stall for a charitable or community event will be free of charge.
- 6.5 A 20% concession is also proposed for those applications that are received from **Westminster residents**. Where an applicant is both a start-up business and a Westminster resident, the start-up business concession will apply.

7 Daily Charge

- 7.1 Section 22 of the Act provides that the council can recover costs associated with:
- the collection, removal and disposal of refuse or other services rendered by them to such licence holders; and
 - the cleansing of streets in which street trading takes place in so far as that cleansing is attributable to such trading; and
 - any reasonable administrative costs or other costs not otherwise recovered under this Act incurred in connection with the administration of the provisions of this Act; and
 - the cost of enforcing the provisions of this Act

These costs are set out in **Appendix G**

- 7.2 In assessing the costs associated with administration and enforcement, the Licensing Service has assessed the proportion of officer time required in each area for administration, check compliance and/ or undertake enforcement.
- 7.3 There are 4 options presented for the daily charge, all of which seek to recover the costs associated with cleansing administration and enforcement. Each option provides a consistent rate across trading days, but shares the responsibility for costs overall differently across individual



traders. These options are set out in **Appendix C**. A short summary is provided in the paragraph below.

- 7.4 **Option 1 – Standard fee across all markets**; this option shares the burden of costs equally across all traders.
- Option 2- Rate for non-food and fresh produce traders and rate for hot food traders** – this option sets the responsibility for the costs with those traders who place the greatest demand on resource. A large number of licences to trade on markets in Westminster are granted to individuals looking to sell hot or take away food. There are additional conditions attached to these licences and there may be operational issues that arise such as long queues that cause obstructions or complaints of nuisance caused by smoke and smells.
- Option 3 – Area based charge** – This option aligns the charges with the current operating model at each market.
- Option 4 – Tapered Increase** – This option is based on a tapered standard charge across all markets over a two year period. In year one the charge is tapered on Monday – Thursday, reducing the increase on these days. Fridays and Saturday remain at the full charge. Year two represents the full charge across all days.

8 Waivers

- 8.1 The Street Trading Policy 2013 sets out a number of waivers that can be applied to individual licence holders who are impacted by circumstances outside their control that affect their ability to trade from their licensed pitch. They include those traders who are a start up business or part of an Enterprise scheme and those licensed traders who have had to change their pitch or location due to circumstances beyond their control and who have found this has had an adverse effect on their revenue.
- 8.2 Any trader may apply to the Licensing Service for a reduction in their daily charge, if they meet the criteria in the street trading policy. Each individual case will be assessed by the Service on its merits.

9. Consultation

- 9.1 Under section 22 (9) of The Act, before any fees and charges are introduced, notice should be given to all existing licence holders and representative bodies. This should set out the proposals and how these have been calculated. A minimum 28 days consultation period should be allowed to enable representations to be made.
- 9.2 It is proposed that given the length of time since the last fee and charges increase and the impact on traders, the Licensing Service consults more widely than this and for a greater length of time.
- 9.3 It is also proposed that the statutory consultation on this fee and charges review takes place at the same time as the consultation on the



development of a market strategy that the Council is currently undertaking. This consultation will include 1-2-1 sessions and a series of workshops to which traders will be invited.

- 9.4 All licence holders and any representative bodies will be written to advising them of the consultation, the details of the proposed fees and charges and how to provide comments.
- 9.5 The proposed fees and charges will be advertised on the Westminster website, with details of how to provide comments during the consultation period.
- 9.6 All responses received during the consultation period will be considered, and where appropriate, the Licensing Service will arrange further meetings or discussions with individual traders.
- 9.7 Following the full consultation period, the proposed fees and charges will be brought to the Licensing Committee for approval. A full report will be provided to the Committee setting out the results of the consultation and officer recommendations for the implementation of fees and charges.
- 9.8 The licensing service will also recommend that the Committee endorse a regular fees and charges review, as set out in the City of Westminster Act 1999, to enable fees and charges to be set on an annual basis, ensuring that future changes to fees and charges are minimised and therefore the impact on licence holders is less significant.
- 9.9 All licence holders who submitted responses during the consultation period will be invited to attend the Licensing Committee and present their views to the hearing.

10. Legal Implications

- 10.1 Whilst the legal implications are set out throughout the body of this report, for clarity, the relevant sections of the Act are set out below:

22 (1) The council may charge for the grant or variation of street trading licences such fees as are sufficient in the aggregate, taking one year with another, to recover the reasonable costs of dealing with such applications

22 (2) The council may recover from licence holders such charges as may be sufficient on the aggregate, taking one year with another, to cover the reasonable costs of-

- a) the collection, removal and disposal of refuse or other services rendered by them to such licence holders: and
- b) the cleansing of streets in which street trading takes place in so far as that cleansing is attributable to such trading: and



- c) any reasonable administrative costs or other costs not otherwise recovered under the Act incurred in connection with the administration of the provisions of this Act; and
- d) the cost of enforcing the provisions of this Act

22 (8) The council may determine that a fee be charged, on application, for the grant of a temporary licence under section 21 of the City of Westminster Act 1999. It may under the Act take into account the costs of dealing with applications, the cost of administration and enforcement.

22 (9) of the City of Westminster Act 1999

The Council shall not determine or vary charges made under subsection (2) unless they have first given notice in writing to:-

- a) All licence holder affected by the proposal
- b) Any body which appears to the council to represent such licence holders

The notice shall

- a) Give details of proposed charges
- b) State that representations may be made regarding the proposed charges by the date specified in the notice as the due date which date shall be not less than 28 days after the notice has been given.
- c) Be accompanied by a statement showing how the proposed charges have been computed

- 10.2 Street Trading is covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.

If you have any queries about this Report please contact:

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APPENDIX A – Current fees

Markets	Charge	With Discount
For each pitch on the highway for which a licence is held:		
A daily charge (Monday to Thursday) of:	10.61	10.08
For Friday a charge of:	20.16	19.15
For Saturday a charge of:	24.40	23.18
For Sunday a charge of:	26.52	25.19
Temporary licences for Casual traders	Charge	With Discount
For each pitch on the highway for which a licence is held:		
A daily charge (Monday to Thursday) of:	19.44	N/A
For Friday a charge of:	28.50	N/A
For Saturday a charge of:	29.72	N/A
For Sunday a charge of:	31.73	N/A

Applications / Licences	£
For a new full licence except that in respect of the Markets and Exhibitions when application is made simultaneously for more than one adjacent pitch, the full fee paid for the first pitch	93.73
And a fee for each additional pitch of:	15.45
Applications for waiver of standard condition 28	169.95
Applications which breach commodity guidelines and where there is a need to report to Committee	169.95
Variations to reduce the number of commodities or reduce the hours or days of trading	17.51
Other Variations / Applications	55.11
Duplicate Licence	15.45
Fee for Licence Plate	2.06
Entry of name on Register of Approved Casual traders	48.93

APPENDIX B – Proposed Application Fee

	Officer time (mins)			Proposed fees				Existing Fees
	Senior Licensing Officer	City Inspector	Env. Health	Fee	Start up business (50%)**	WCC Residents (20%)**	Charity or Community Stall	
New / Variation to sell hot take away food	30	30	120	£260	£130	£208	£0	From 93.73* to 169.95
New / Variation to sell fresh produce	30	30	30	£126	£63	£101	£0	
New / Variation to sell non food items	30	30	10	£96	£48	£77	£0	
Minor variation* to remove or add trading days or commodities within the same category	30	15	0	£60	£30	£48	£0	
Application to be on approved list of casual traders	30	15	0	£60	N/A	£48	N/A	48.93
Registration of Assistant for existing licence holders	15		0	£19	N/A		N/A	
Replacement Licence / Licence plate	15		0	£19	N/A		N/A	15.45 plus 2.06
Application for further temporary licence*	15		0	£19	N/A		N/A	
*one fee representing minimal officer time the other fee for more complex cases								
**Where more than one discount can be applied for, the higher discount will be used								

Appendix C – Proposed Daily Charge Options for Consultation

* a 5% direct debit discount will exist on all fee options		
Option 1	Standard fee	
	fee across all markets and days	£22.00
Option 2	Higher rate for Hot / take away food traders	
	(hot / take away food trader)	£25.00
	(non-food or fresh produce trader)	£20.00
Option 3	Area based fee	
	North (Church Street, Maida Hill)	£21.00
	Berwick Street, Rupert Street	£24.00
	Tachbrook Street, Strutton Ground	£22.00
Option 4	Tapered Increase * This fee is a two year proposal the taper will apply to Monday - Thursday fees only.	
	Year 1 - Monday - Thursday	£16.00
	Year 1 - Friday - Saturday	£22.00
	Year 2 - All days and all markets	£22.00
	Fee if deficit were recovered (not being considered)	£31

APPENDIX D – DAILY CHARGE PROPOSED CHANGES

This table is presented by day as this is the current fee model in place.

Weekday			
	existing	new	diff
Option 1	£10.61	£22.00	£11.39
Option 2 Non food	£10.61	£20.00	£9.39
Option 2 Hot food	£10.61	£25.00	£14.39
Option 3 North	£10.61	£21.00	£10.39
Option 3 Central	£10.61	£24.00	£13.39
Option 3 South	£10.61	£22.00	£11.39
Option 4	£10.61	£16.31	£5.70
Friday			
	existing	new	diff
Option 1	£20.16	£22.00	£1.84
Option 2 Non food	£20.16	£20.00	-£0.16
Option 2 Hot food	£20.16	£25.00	£4.84
Option 3 North	£20.16	£21.00	£0.84
Option 3 Central	£20.16	£24.00	£3.84
Option 3 South	£20.16	£22.00	£1.84
Option 4	£20.16	£22.00	£1.84
Saturday			
	existing	new	diff
Option 1	£24.40	£22.00	-£2.40
Option 2 Non food	£24.40	£20.00	-£4.40
Option 2 Hot food	£24.40	£25.00	£0.60
Option 3 North	£24.40	£21.00	-£3.40
Option 3 Central	£24.40	£24.00	-£0.40
Option 3 South	£24.40	£22.00	-£2.40
Option 4	£24.40	£22.00	-£2.40

Appendix E - Impact on typical trading patterns

Scenario 1 - Strutton Ground, Trading Monday - Friday				Scenario 4 Church Street Trading Saturday Only			
	Fee	Difference	%		Fee	Difference	%
Existing fee	£62.60			Existing fee	£24.40		
Option 1	£110.00	£47.40	76%	Option 1	£22.00	-£2.40	-10%
Option 2 - non food / fresh produce	£100.00	£37.40	60%	Option 2 - non food / fresh produce	£20.00	-£4.40	-18%
Option 2 - Hot food	£125.00	£62.40	100%	Option 2 - Hot food	£25.00	£0.60	2%
Option 3	£110.00	£47.40	76%	Option 3	£21.00	-£3.40	-14%
Option 4	£86.00	£23.40	37%	Option 4	£22.00	-£2.40	-10%
Scenario 2 - Tachbrook Street, Trading Thursday, Friday, Saturday				Scenario 5 - Church Street Trading Monday - Thursday			
	Fee	Difference	%		Fee	Difference	%
Existing fee	£55.17			Existing fee	£42.44		
Option 1	£66.00	£10.83	20%	Option 1	£88.00	£45.56	107%
Option 2 - non food / fresh produce	£60.00	£4.83	9%	Option 2 - non food / fresh produce	£80.00	£37.56	89%
Option 2 - Hot food	£75.00	£19.83	36%	Option 2 - Hot food	£100.00	£57.56	136%
Option 3	£66.00	£10.83	20%	Option 3	£84.00	£41.56	98%
Option 4	£60.00	£4.83	9%	Option 4	£64.00	£21.56	51%
Scenario 3- Berwick Street Trading Tuesday to Friday							
	Fee	Difference	%				
Existing fee	£51.99						
Option 1	£88.00	£36.01	69%				
Option 2 - non food / fresh produce	£80.00	£28.01	54%				
Option 2 - Hot food	£100.00	£48.01	92%				
Option 3	£96.00	£44.01	85%				
Option 4	£64.00	£12.01	23%				

APPENDIX F- Fees charged to Licence holder at other London Local Authority run markets.

	Monday – Thursday	Friday	Saturday
RBKC	£13/£10	£23/£16	£45/£47/£35
Lambeth	£32/£22/£17		
Camden	£13.09 - £25		

<https://www.rbkc.gov.uk/business-and-enterprise/towncentres-neighbourhoods/markets-and-street-trading/street-trading-fees>

[https://www.lambeth.gov.uk/sites/default/files/brl Market Fees and Charges%202015 16.pdf](https://www.lambeth.gov.uk/sites/default/files/brl%20Market%20Fees%20and%20Charges%202015%2016.pdf)

http://camden.gov.uk/ccm/cms-service/stream/asset/?asset_id=3632398&

APPENDIX G - Costs Associated with Cleansing, Administration and Enforcement

COSTS				
Market	Administration	Enforcement	Cleansing	Total
NORTH	45,638.93	158,884.86	465,651.47	670,175.26
CENTRAL	107,045.71	116,108.17	79,919.78	303,073.66
SOUTH	69,171.44	131,385.56	68,227.40	268,784.40
TOTAL	221,856.08	406,378.60	613,798.65	1,242,033.33

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City of Westminster Licensing Committee Report

Date	04 July 2018
Classification	General Release
Title or report	Licensing Service approach to Notting Hill Carnival 2018
Report of	Director of Public Protection and Licensing
Decision maker	For information
Financial summary	None
Report author and telephone	David Sycamore – Licensing Service Team Manager 020 7641 8556

1. Executive Summary

- 1.1 This report provides an update to the Licensing Committee on the Licensing Services approach to the Notting Hill Carnival for 2018.
- 1.2 The Licensing Service have been involved with this year's Carnival planning meetings which involved all of the key stakeholders who are involved in delivery of a successful and safe event.
- 1.3 Officers from the Licensing Service and City Promotions, Events and Filming Team will continue to support applicants in completing event management plans and applications for the relevant permissions as well as providing information on security and access arrangements.
- 1.4 The Licensing Services Environmental Health Consultation Team will be working with the Metropolitan Police Service Westminster Licensing Team in considering any Temporary Event Notices that seek to operate a sound system or sell alcohol during the Carnival weekend. The Environmental Health Officers and Police Licensing Officers will be conscious of the potential numbers who could be attracted to sound systems and the potential for the capacity to exceed the capacity limit of 499 persons permitted under the temporary Event notice.

- 1.5 Street trading pitch locations, particularly at points between Royal Borough of Kensington and Chelsea and the Councils boundaries will also be considered to ensure improved pedestrian flow across the Carnival footprint.

2. Background

- 2.1 Preceding last years event the Licensing Authority acknowledged 3 temporary event notices and there are 3 premises licences already granted for sound systems. The Council also issued 23 street trading licences for traders within Westminster's Carnival footprint. There was no change in the number from 2016 of sound systems. A plan covering for the Carnival footprint is provided as Appendix 1 to this report.
- 2.2 Prior to last years event all sound system operators were invited to meet members from the Licensing Service to offer advice and guidance on submitting applications and event management plans.
- 2.3 Officers from the Licensing Service also met with every street trading applicant to ensure that they understood their responsibilities and duties under the street trading licence.
- 2.4 The event management plans submitted by applicants, licence holders and those submitting a temporary event notice were considered by Westminster Police Licensing and the Environmental Health Consultation Teams. The Council's City Promotions, Events and Filming Team provided input and support to the Environmental Health Consultation Team as part of their considerations.
- 2.5 During the Carnival weekend, officers from Public Protection and Licensing were onsite to ensure compliance with conditions, agreed undertakings and event management plans.

3. Preparation for this year's Notting Hill Carnival

- 3.1 A new event organiser has been brought in to take on the responsibility for planning and delivering the Notting Hill Carnival this year. Notting Hill Carnival Limited (NHCL) are a wholly owned subsidiary of Carnival Village Trust, set up to manage the particular risks associated with Carnival. The Trust has in place a members' agreement reserving certain key decisions to itself. The subsidiary has its own Board and Advisory Council.
- 3.2 NHCL were successful in securing the grant funding awarded by the Royal Borough of Kensington and Chelsea. They have also submitted funding requests to the multi-agency Strategic Partners Group which Westminster City Council sits on. Westminster City Council is currently considering its offer of funding.
- 3.3. In relation to Sound Systems NHCL are working with all partner agencies, British Association of Sound Systems (BASS) and the individual sound systems to enhance the planning and safety arrangements.

- 3.4 NHCL has issued a guidance document to all sound systems which sets out the standards expected from the sound systems event management plans. This guidance document includes the requirements specified by the Council.

4. Licensing Services Approach for this years Carnival

Feedback and actions

- 4.1. Following last year's event the Licensing Service will continue to engage with all of the key stakeholders. The Council has been working in partnership with colleagues from the Royal Borough of Kensington and Chelsea and the NHCL.
- 4.2 Where the Police or Environmental Health Officers believe that a sound system cannot guarantee that the capacity does not exceed 499 persons they will insist that the operator applies for a premises licence for that location. The Licensing Service and City Promotions, Events and Filming Team will continue to provide support to any operator who requires it when completing their event management plans and/or proposing conditions that may be attached to the licence.
- 4.3 Private forecourts that have in previous years sold alcohol and other refreshments including food have at times caused large queues. These raised concerns regarding the impact on the public highway and crowd dynamics. The Licensing Service will be writing to properties who have permitted this in the past to remind them of the requirements under the City of Westminster Act 1999 concerning trading within 7m of the highway and if queues could be generated affecting the flow of people.
- 4.4 In previous years the location of some sound systems has created large crowds which can significantly impact pedestrian flow when they are operating. This was evidenced in the report undertaken by Movement Strategies on crowd dynamics, which was published in 2017.

Engagement

- 4.5 As with previous years, the Licensing Service will meet with all stakeholders prior to Carnival. This includes, but is not limited to, the organising committee, BASS the Metropolitan Police Service, sound system operators, Street Traders Mayor's office and the Royal Borough of Kensington and Chelsea.
- 4.6 Sound system operators have been invited to meet with Licensing Service Officers and other partners in June. Officers from the Licensing Service will also be attending the event organiser meetings with sound systems and the event organisers.
- 4.7 All sound systems operators will be invited to a meeting, beginning on the 25th June 2018, to discuss the plans for this years Carnival. The meeting will focus on supporting operators to develop improved event management plans, safety and crowd control systems and better communications with all responsible authorities.

Temporary Event Notices

- 4.8 Where Temporary Event Notice applications receive objections from Environmental Health Consultation Team or the Police, the applicants will be contacted directly by the objecting officer. If the operator can amend their temporary event notice to address concerns raised by either the police or the Environmental Health Officer then the operator will be encouraged to do so. If the temporary event notice is modified to address the responsible authorities concerns then they may be in a position to withdraw their representations. Where the operator's temporary event notice is deemed to significantly risk one or more of the licensing objectives under the Licensing Act 2003 then the police and Environmental Health Officer will maintain their representation and a hearing will take place before the Licensing Sub-Committee.
- 4.9 If the Licensing Sub-Committee, after hearing the evidence presented at a hearing considered that allowing a temporary event notice will adversely impact one or more of the licensing objectives then the Sub-Committee will issue a counter notice.
- 4.10 The Licensing Service has responded to feedback from the Licensing Sub-Committee in relation to temporary event notices. Committee reports for Temporary Event Notices will now provide further detail of the temporary event notice, any discussions that have taken place with the notice giver and the reason why the responsible authority is maintaining their objection. The Licensing Service will make it clear to the notice giver that at Licensing Sub-Committee can only consider the original notice and not undertakings offered.
- 4.11 If any temporary event notices are made for this year's Carnival will be received within the next few months. If any of these temporary event notices are opposed these will be listed during July and early August. One temporary event notice for the carnival has already received a counter notice from the Licensing Sub-Committee due to the potential impact that it would have on the licensing objectives. If late Temporary Event Notices are received and objected too, they are served a counter notice and the event cannot go ahead.
- 4.12 The Licensing Service make it clear to all applicants for temporary event notices that they should submit their notices as soon as possible. They will also be advised that they must be accompanied by an event management plan otherwise they will receive an objection from the Police and/or the Council's Environmental Health Officer.
- 4.13 A weekly document of the temporary event notices that have been submitted for the Notting Hill Carnival weekend and the current status of that notice will be shared with the relevant authorities.

Sound Systems

- 4.14 It is not expected that there will be an increase in sounds systems within Westminster's Carnival footprint in 2018. Where sound systems cannot operate

effectively within the capacity limit of 499 persons under a temporary event notice they will be encouraged and supported to apply for premises licences.

- 4.15 Following discussions with the operator of Solution Sounds, a sound system located on Ledbury Road, they will be applying for a time limited (annual permission) premises licence this year rather than a temporary event notice. It was identified that a temporary event notice was not appropriate for this site as it was highly likely that the capacity limit of 499 would be exceeded.

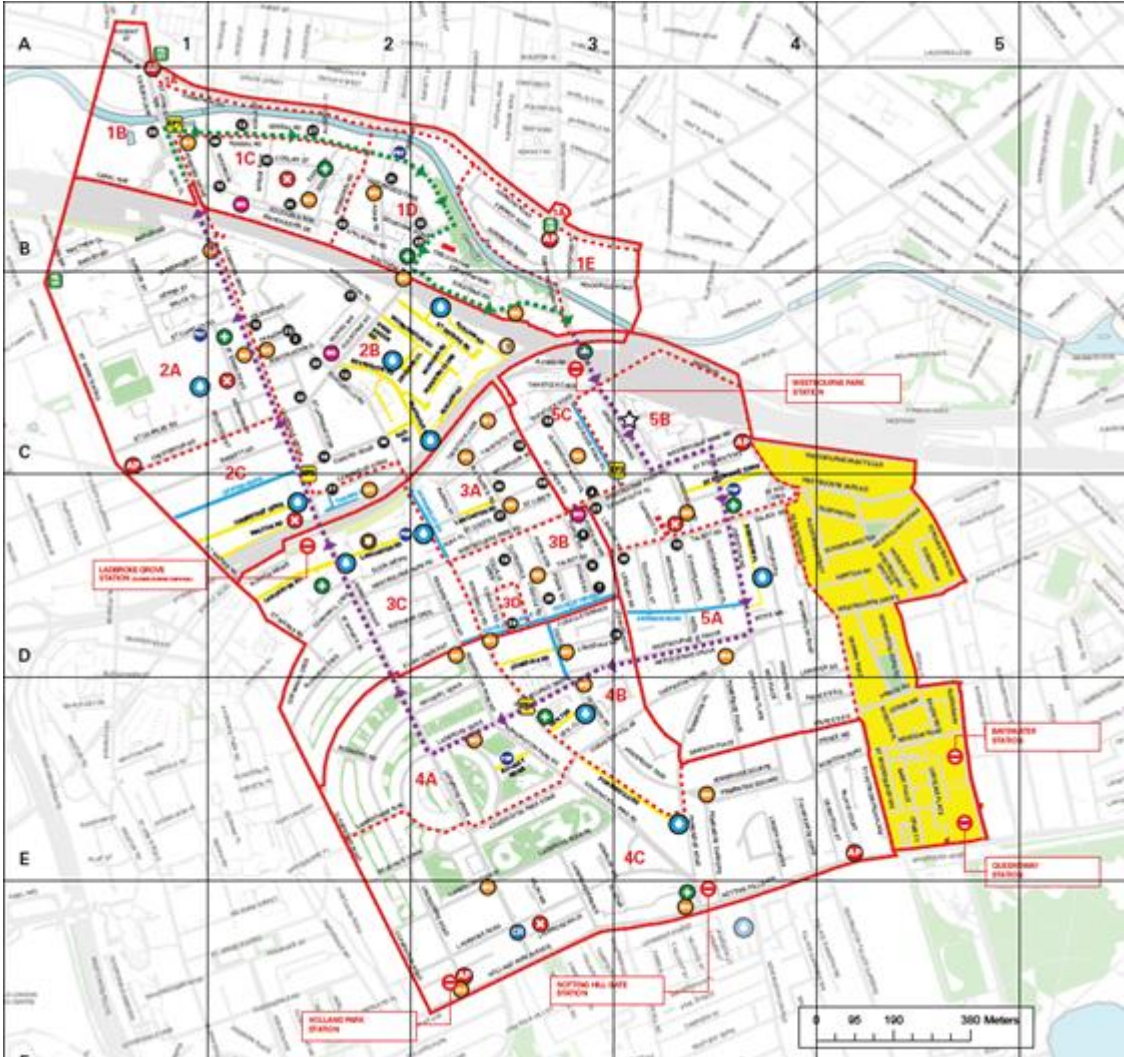
Street Trading

- 4.16 As with previous years a number of roads within the Westminster's Carnival footprint permit street trading. Compliance with the licence was reasonably good at last year's event and applicants engaged with the Licensing Service to ensure that all documentation were submitted in good time.
- 4.17 Westminster will actively promote the availability of street trading pitches at this years event to previous carnival traders. A street trading application pack will be sent to applicants or can be downloaded from the dedicated Carnival website.

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mr David Sycamore
Licensing Service Team Manager
Tel: 020 7641 8556

Appendix 1





City of Westminster

Licensing Committee Report

Date:	Wednesday 4 th July 2018
Classification:	For General Release
Title:	Licensing Appeals
Report of:	Director of Law
Wards Affected:	All
Policy Context:	A business-like approach
Financial Summary:	N/A
Report Author and Contact Details:	Heidi Titcombe, Principal Solicitor for Shared Legal Services. Tel: 020 7361 2617 Email: heidi.titcombe@rbkc.gov.uk

1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendation

2.1 That the report be noted.

3. Background

3.1 Over the last quarter we have been dealing with the appeals and Hemmings case as specified in section 4 and 5 of this report.

4. Licensing Act 2003 Appeals

4.1 **Sophisticats, 3 – 7 Brewer Street, London, W1F 0RD – Appeal dismissed**

4.1.1 This was an appeal by Devine Restaurants Ltd (“Appellant”) against two decisions of the Licensing Sub-Committee made on 1st December 2016 and 6th April 2017. Both appeals were conjoined and heard at Westminster Magistrates’ Court on 27th and 30th June 2017. Both appeals were dismissed because District Judge Baraitser concluded that both decisions of the Licensing Sub-Committee were not wrong. On 14 September 2017, the Appellant was ordered to pay £42,684 in relation to the Council’s legal costs. This sum has been paid in full.

4.2 **Crocker's Folly, 24 Aberdeen Place, London, NW8 8JR - Appeal withdrawn**

- 4.2.1 This Premises is a public house and restaurant which has an outside seating area. On 24 January 2017, the Premises Licence Holder, (Firestone Management Ltd) sought permission to vary the licence by extending the hours when the external outside area could be used from 21:00 hours to 23:00 hours each day. The application was opposed by Environmental Health, two ward councillors and 15 local residents.
- 4.2.2 The Licensing Sub-Committee refused the application on 27 April 2017 on the grounds that the variations would not promote the prevention of public nuisance licensing objective.
- 4.2.3 The appeal was scheduled to be heard at Westminster Magistrates' Court between 4 to 6 October 2017. However, on 10 August the Appellant withdrew its the appeal. At the costs hearing on 11 October 2017, the Appellant was ordered to pay the Council's legal costs of £15,180. It was agreed that this could be paid in instalments and the full sum has been received.

4.3 London Film Museum, 45 Wellington Street, WC2E 7BN - Appeal withdrawn

- 4.3.1 The premises licence allows the following licensable activities: exhibition of films, performance of dance, live music, performance of plays, anything of a similar description, late night refreshment and the sale by retail of alcohol until 00:30 hour from Monday to Saturday, with an earlier terminal hour on Sunday of 22:00. The Applicant, London Film Museum (Covent Garden) Ltd applied to extend the terminal hour for all the licensable activities to 02:00 Monday to Saturday, with closing by 02:30 hours. No change was proposed for Sundays. No conditions were proposed with the application or at the hearing.
- 4.3.2 The Police and the Licensing Authority objected to the variations sought but no other representations were received. On 6 July 2017 the Licensing Sub-Committee decided to refuse the application firstly, on the basis that the proposal would be contrary to the Council's Cumulative Impact Policy. Secondly, that no conditions had been offered to address the problems which could arise in relation to the substantial increase in hours and this would be contrary to the promotion of three of the licensing objectives. The Authority was also concerned that the premises would be able to hold 150 events per year, which could mean an event every weekend all year around.
- 4.3.3 The Premises Licence Holder appealed and the appeal was scheduled to be heard over two days on 25 and 26 January 2018.
- 4.3.4 The Appellant subsequently put forward a compromise offer to the Council which would have effectively resulted in another proposal to vary the licence. The Council decided that it would be inappropriate for the Council to agree to the proposal and it was rejected.
- 4.3.5 The Appellant subsequently withdrew their appeal on 21 November 2017. The Appellant agreed to pay the Council's legal costs of £15,387.50 and these have been paid.

4.4 Swingers, 15 John Prince's Street, W1 – Appeal settled

- 4.4.1 Swingers 2 Ltd sought the grant of a new licence which aimed to provide indoor golf and a number of restaurants within the premises. They originally sought a terminal hour for licensable activities until 00:30 hours on Sunday to Wednesday and until 01:30 hours on Thursday, Friday and Saturday. However, the hours were cut back to core hours at the hearing.
- 4.4.2 The application was opposed by the Police, Environmental Health and four local residents who were concerned about the initial hours requested. However, once the hours had been cutback one of the primary concerns remaining for the Police was the availability of glass receptacles in the areas where the golf was proposed to be played, should any conflict arise between groups. Consequently, the Licensing Sub-Committee granted the application on the 21 September 2017 subject to a number of conditions, including a condition that all drinks should be supplied throughout the Premises in polycarbonate vessels rather than glassware, save for when the Premises was used for private or pre-booked events within specified areas of the Premises with the consent of the Police (condition 40 on the licence).
- 4.4.3 Swingers 2 Ltd appealed against the Committee's decision only in relation to attaching the polycarbonate condition to the licence. The Appellant swiftly put forward a proposal to the Council to amend the condition which was acceptable to the Police and the Licensing Sub-Committee, and the appeal has been settled. The Appellant has paid the Council's legal costs of £5, 200.

4.5 **Continental Food and Wine, 27 Craven Road, Paddington, London, W2 3PX. – No Appeal**

- 4.5.1 This premises is a convenience shop which has permission to sell alcohol off the Premises from 08:00 hours to 23:00 hours Monday to Saturday and from 10:00 hours to 22:30 hours on Sunday.
- 4.5.2 On 14 December 2017, the Premises Licence Holder sought an extension of hours to midnight on Sunday to Thursday and to 01:00 hours on Friday and Saturday. This was refused because opposition from the Police, Environmental Health and the South East Bayswater Residents' Association.
- 4.5.3 The Council were advised that appeal had been received, subject to the court fee being paid. However, it has now been confirmed that appeal has been withdrawn. Very minimal legal work was undertaken and therefore no costs were sought from the proposed Appellant.

4.6 **The Windmill 17-19 Great Windmill Street, London W1D 7LQ - ongoing**

- 4.6.1 The Council received a renewal application of the sexual entertainment venue ("SEV") premises licence from Big Country Ltd to provide full nudity striptease, pole dancing and table dancing between the hours of 09:00 to 05:30 on each of the days Monday to Saturday and from 14:00 to 03:00 on Sunday at The Windmill. The Applicant did not ask to change the relevant entertainment or remove any standard conditions to the licence.
- 4.6.2 An objection to the application was received on 12 October 2017 and the objector stated that they believe in women's rights and do not believe in the objectification of women. They alleged that the club allows groping, pinching and slapping of the performers. The objector employed covert ex-police

officers to observe what happens within the venue and the statements from the officers were submitted as evidence before the Licensing Sub-Committee. In addition, the objector maintained that there were breaches to the licence conditions and that the current owners and management are not fit and proper persons to hold an SEV licence.

4.6.3 The Westminster City Inspectors also submitted an objection to the renewal application which advised that following an investigation it was noted that there were breaches of conditions, the CCTV needed to be improved to allow for better coverage of the premises and allegations of criminal activity taking place at the premises.

4.6.4 On the 11 January 2018 the Licensing Sub-Committee decided that it would not allow the renewal of the SEV licence application as it was considered that the Applicant was not suitable to hold the SEV premises licence.

4.6.5 Big Country Ltd has appealed this decision and the Case Management Hearing took place on 30 January 2018. The appeal has been listed for hearing at Hendon Magistrates' Court over three days commencing on 8 October 2018.

4.7 **Belgrave Square Garden, Open Space, Belgrave Square, London SW1 Appeal ongoing**

4.7.1 An application was submitted by Belgrave Square Garden Events Committee and the amended Application before the Licensing Sub-Committee sought permission for the provision of films, plays, live music, recorded music, performance of dance and anything similar to dance; and late night refreshment (where applicable) until 23:30 on Monday to Thursday, until midnight on Friday and Saturday and 22:30 on Sunday.

4.7.2 In relation to the hours for sale of alcohol for consumption in the premises, the Applicant asked for:-

- 10:00 to 23:00 hours Monday to Saturday; and
- 12:00 to 22:30 on Sunday.

In respect of alcohol off sales, the applicant asked for:-

- 10:00 to 23:30 on Monday to Thursday; and
- 10:00 to midnight on Friday and Saturday; and
- 12:00 to 22:30 on Sundays.

The premises would close to the public thirty minutes after these terminal hours.

4.7.3 It was proposed that there would be 7 events per year with a maximum capacity of 1,000 people. In addition, the Applicant sought permission for non-standard timings on a maximum of 3 occasions per calendar year when licensable activities may continue until 01:00 hours. A number of conditions were also proposed by the Applicant.

4.7.4 A number of representations objecting to the application were received from the Police, Environmental Health and 34 from Other Persons. In addition, 24 representations were received in support of the application from Other Persons.

- 4.7.5 The Sub-Committee determined the application on 1 March 2018. It decided to grant the amended application on the basis that there would be a maximum of 5 events held per calendar year, as opposed to the 7 requested, and limited the capacity to a maximum of 500 people, as opposed to the 1,000 requested. In relation to the hours, the Sub-Committee granted Core Hours which reflected the amended application, as set out in paragraphs 4.7.1 and 4.7.2 above. The new premises licence was subject to a number of conditions that were imposed by the Sub-Committee.
- 4.7.6 The Applicant had appealed the decision and the hearing had been scheduled to take place on 15-17 October 2018 at Hendon Magistrates' Court. However, the Appellant withdrew the appeal on 12 June 2018. The Appellant has paid £3,500 towards the Council's legal costs.

5. JUDICIAL REVIEWS

5.1 Hemming and others v Westminster City Council

- 5.2 Members will be aware that Hemming and a number of other proprietors of sex establishments in Soho have challenged the fees charged by Westminster for sex shop licences. They have alleged that the Council is only entitled to recover the administrative costs of processing the application within the licence fee, and not the costs of monitoring and enforcing the whole licensing regime against unlicensed and licensed operators. They claimed that this would be contrary to the Service Provision Regulations which came into force in 2009 and the European Union Services Directive. At the time of the claim, Westminster were charging just over £29,000 for the annual licence fee. This was on the basis that the licensing regime should be self-financing.
- 5.3 The High Court and the Court of Appeal had both previously held that that the European Directive prevented Westminster from recovering the fees for monitoring and enforcing the licensing regime, against licensed and unlicensed operators. Westminster were therefore ordered to repay that element of the fee which related to monitoring and enforcement.
- 5.4 Westminster appealed to the Supreme Court which held in 2015 that local authorities were entitled to charge a fee towards the monitoring and enforcement of the licensing regime. The Supreme Court was clear that it was lawful to charge a licence fee which was payable in two tranches. The first fee, payable at the time when the application was made to cover the costs of processing the application. Then if the application was successful, a second fee to cover the costs of monitoring and enforcing the whole regime against licensed and unlicensed operators. This scheme is commonly called a Type A scheme.
- 5.5 However, the Court wanted clarification as to whether it was lawful under European law to charge one fee, covering both the costs of processing the application and a refundable fee for monitoring and enforcing the licensing regime, payable at the time the application was made, (commonly called a Type B scheme). The Court therefore referred the latter issue to the Court of Justice of the European Union ("CJEU"). Westminster originally adopted the Type B scheme but as the case progressed it adopted a Type A scheme. On 16 November 2016 the CJEU held that Type B scheme was unlawful as a

matter of European Union law.

- 5.6 On 19 July 2017 the Supreme Court decided decisively in favour of Westminster that the Council could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster (including the costs of enforcement against unlicensed operators).
- 5.7 The case has returned to the Supreme Court for final decisions to be made following the earlier decisions in the Supreme Court and the CJEU.
- 5.8 There are two issues outstanding, namely (1) obtaining an assessment as to what costs should be paid to Westminster by Hemmings and the other Operators to cover the monitoring and enforcement costs which are were not payable and (2) seeking an order for costs against the Claimants in relation to the hearing before the Supreme Court and the CJEU.
- 5.9 The Council has filed draft skeletons of arguments and draft orders with the Supreme Court so that these matters can be remitted to the Administration Court for determination and it is estimated that these matters will be resolved some time in 2018. The Council is also preparing its evidence in support of the applications outstanding.

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 Heidi Titcombe, Principal Solicitor and Manager of the Planning, Highways and Licensing Legal Team on 020 7361 2617; email: heidi.titcombe@rbkc.gov.uk