



City of Westminster

Licensing Committee Report

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

1. Executive Summary

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

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

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

2. Recommendation

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

3. Background

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

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

4. Growing impact on local residents

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

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

5. Challenges

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

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

6. Environmental concerns from delivery vehicles

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

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

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

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

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

8. Proposed approach

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

9. Financial Implications

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

10. Legal Implications

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

11. Staffing Implications

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

12. Reason for Decision

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

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

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

Appendices

None

Background Papers

Licensing Act 2003
Council's Licensing Policy