

## Appendix 1 – Consultation Submissions and Licensing Authority Response

Where a proposed response is highlighted, this is because it resulted in a change to the text of the policy or explanatory notes.

### Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1

The majority of respondents (62.5%) agreed with policy approach for deliveries, although 43.8% of respondents felt that the criteria did not set out all of the necessary considerations.

Reasons for not agreeing with approach included:

- The services being a positive and not needing regulation
- An objection to the services being available at all.
- Objection based on the impact on the NHS of alcohol being more available
- The impact of delivery vehicles on noise, traffic and the environment
- Oppose using existing premises use type core hours
- A case by case approach (as is currently the case) is more appropriate than a blanket approach

<u>Issue</u>	<u>Comment/Suggested Amendment</u>	<u>Proposed Response<sup>1</sup></u>
Hours	Hours for the provision of delivery may need to be curtailed in residential areas	This is a matter best dealt with on a case by case basis based on policy PN1
	Hours for delivery should be the same as the hours for on-sales	Each case will be judged on its own merits, however as this policy is for ancillary deliveries it is expected that the terminal hour for deliveries will not be later than on-sales.
	Hours for delivery should be 11pm in line with the previous OS1, DC1 and SHP1 policies.	Revised Guidance recommends that premises selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are good reasons, based on the licensing objectives, for restricting those hours. Core hours for deliveries are in line with the premises type. This approach can be deviated from on the merits of each individual application.

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	If a premises already has a licence beyond core hours deliveries should be permitted to the same hours.	The core hours for deliveries are the same as the core hours for the premises' on-sales. This will be subject to other policies and each application will be dealt with on its merits. There may be different considerations for deliveries than there were when the original licence was granted therefore a presumption to grant beyond core hours is not appropriate.
Regulation of drivers	There needs to be tight regulation of delivery drivers and the companies for whom they work	This is outside the scope of this policy
	Individuals and businesses that provide courier delivery services should be formally accredited by WCC.	The Licensing Authority does not have the powers to implement this.
Presumption to grant/refuse	The proposal to generally grant is not strict enough and there should be a presumption against inside of the CIZ	This will depend on the premises type (e.g. there is a presumption against a new pub with deliveries)
Cumulative Impact Zone	Reference to CIP1 and the CIZ should be made in Clause A.	We will amend to make explicit reference to the Cumulative Impact Zone as a consideration.
Length of Policy	The policy could be temporary whilst the effects of the pandemic are still being felt	The Statement of Licensing Policy is a statutory requirement under the Act and is a long term policy that could last up to 5 years. The Licensing Authority is therefore not minded
Definition of 'predominantly residential area	Reference to predominantly residential area should be included in clause B and be a general consideration	We have amended the structure of the policy to make clearer what is a criteria that must be met to prompt the presumption to grant and what is a consideration for all applications, which includes whether or not the venue is in a predominantly residential area.
	It is not well enough defined and may be based on the judgement of different licensing sub-committees.	Predominantly residential is extremely difficult to define on a city-wide basis, however we will expand in the explanatory notes on the approach that will be adopted when determining whether or not an area is 'predominantly residential' (new paragraphs X.55 and X56).
	It would likely cover most of Westminster.	The Licensing Authority believes that is the strikes the correct balance.
	The definition should include 'mixed use areas' or use a similar reference to PN1 which refers to a premises' proximity to residential accommodation	We have amended the wording in policy DEL1 to be similar to the language used in PN1.
	Predominantly residential area should be rephrased to just 'residential'.	The Licensing Authority believes that this strikes the correct balance and in turn will help support businesses as well as protecting residential amenity.

	There should be a map showing which areas are 'predominantly residential'.	This is something that may be considered in the future. The Licensing Authority will continue to include resident numbers in Licensing Sub-Committee reports.
	The policy should not refer to predominately residential area as residents can be affected wherever they live.	The Licensing Authority appreciates that residents can be affected by nuisance wherever they live. This policy attempts to strike a balance between supporting businesses and protecting residential amenity. However outside of predominantly residential areas, the Public Nuisance policy still applies and any nuisance can be considered when a decision is made on an application by the Licensing Sub-Committee.
	Delivery centres should be restricted to predominantly business areas.	The Licensing Authority does not believe that this is currently possible.
Delivery Vehicles	Consideration should be given to the size a fleet when considering the environmental impact of a delivery service, especially for smaller businesses.	Applications will be decided on their individual merits and these issues will be considered if raised.
	Delivery vehicle engines should not be left running while the couriers enter the premises to pick up food and drink for home delivery, nor when they drop them off.	The expectations around use of vehicles are set out in the Statement of Licensing Policy.
Conditions	Paragraph X.19 (a condition requiring all deliveries to be to a verifiable residential or business address and face to face ID verification ) should be a mandatory condition.	The Licensing Authority cannot impose mandatory conditions but will consider adding this to the suite of model conditions.
Ancillary nature of operation	Policy RNT1 is to be amended but what are the metrics that define 'ancillary' and if a delivery business grows bigger than the main operation how will this be monitored to understand if a new licence will be required?	'Ancillary' is a relative term and will be determined on a case by case basis depending on the nature of the operation. The Ancillary nature of an activity will be monitored by the Licensing Enforcement team as it currently is.
Impact of policy	The proposed relaxation could result in substantial increases in the volume of deliveries being made and therefore the noise and disturbance at 'both ends', namely at the point of collection from the restaurant / bar but also at the point of delivery to the consumer	Nuisance caused by a licensed premises in the course of delivery will still be a licensing consideration. Residents and responsible authorities have the opportunity to call for a review of a licence should the deliveries from a venue cause public nuisance, including at the end point of a delivery.

## Shops Policy

The majority of respondents (56.3%) agreed with the introduction of a policy licensable activities in shops. There was a slight preference among respondents for a presumption to grant for shops outside the CIZ (31.3% agreed, 25% disagreed) although most respondents disagreed with a presumption to grant within the CIZ (18.8% agreed and 43.8% disagreed).

Reasons for not agreeing with approach included:

- Concerns about shops becoming bars and an increase in bar type premises
- Concerns about the core hours and there not being a requirement that alcohol is ancillary to food that late at night.

<b>Issue</b>	<b>Comment/Suggested Amendment</b>	<b>Proposed Response</b>
Presumption to grant/refuse	A presumption to refuse in the CIZ (potentially only after 8pm)	The Licensing Authority does not believe a presumption to refuse for retail premises is currently justified.
Impact of granting licenses to shops	Concerns were raised about the potential impact of additional licenses in shops, especially within the CIZ	The Licensing Authority is keen to support shops who wish to offer ancillary licensable activities to the main purpose of their shop. However, the Licensing Authority will expect shop operators to apply for licensable activities that will be operated in a way that will promote the licensing objectives and not impact residents. We will make clear in the explanatory text that this policy is intended to apply to premises that offer the retail sale of goods or provide services to customers as the primary use of the premises. All other licensable activities, including the sale of alcohol for consumption on the premises must be ancillary to the main use of the premises as a shop. Where appropriate, Licensing Sub-Committees may impose conditions that seek to ensure the licensable activities do not exceed a level that could reasonably be expected of shops, for example limiting the proportion of sales that alcohol can make up, or limiting the licence to a particular operator.
Hours	Core hours outside of the CIZ should be 8pm to encourage shops not to apply for later.	The Licensing Authority encourages applicants to only apply for the hours they will use in the Statement of Licensing Policy. Core hours should be aimed at promoting the licensing objective based on the evidence that the Licensing Authority has.
	The interaction between X27, X31 and X35 (hours for licensable activities in shops) is unclear as they are possibly contradictory with each other and with new HRS1.	The wording will be reviewed to ensure it is as clear as possible. The intention behind these paragraphs is that:

		<ul style="list-style-type: none"> <li>• applications within core hours will generally be granted (subject to other policies) and shops will generally be granted a licence with hours that match their trading hours (paragraph x.27)</li> <li>• Each case is decided on its merits in appropriate cases the Licensing Authority will depart from its policy and condition the sale of alcohol to cease before a venue closes (paragraph x.35)</li> <li>• 24 hour off sale licences will usually one such example due to issues caused by street drinkers and underage drinkers and will and we will generally not grant 24 hour off sale licenses. (paragraph x.31)</li> </ul>
Acoustic Report	Please clarify whether the ancillary requirement for licensable activities in this policy will mean that premises will be exempt from the requirement to provide an acoustic report as required by Appendix 11, section 10 of the current Policy (being Use Class E).	The proposed policy does not change the provisions in Appendix 11. It should be noted this is a recommendation not a requirement.
Environmental Considerations	Requiring recyclable packaging is irrelevant.	Westminster City Council has declared a climate emergency and encourages all residents, businesses and visitors to do all they can to tackle climate change.

### **Delivery Centre Policy – DC1**

The majority of respondents (68.8%) agreed with the introduction of a policy for delivery or distribution centres in shops. Most respondents (62.5%) agreed with a presumption to grant outside the CIZ. 50% respondent agreed with a presumption to grant within the CIZ (outside of predominantly residential areas). Most respondents (56.3) felt that the definition of delivery centre was sufficiently detailed

Reasons for not agreeing with approach was predominantly based on the impact on residential amenity.

<b><u>Issue</u></b>	<b><u>Comment/Suggested Amendment</u></b>	<b><u>Proposed Response</u></b>
Hours	Hours should be restricted to 8am – 7pm	The Licensing Authority does not consider such limited hours are currently justified.
	It should be made clear that within core hours does not mean to the full extent of core hours	The Licensing Authority encourages applicants to only apply for the hours they will use in the Statement of Licensing Policy.

	Delivery of alcohol should not be allowed after core hours	Each case will be determined on its own merits with reference to policy HRS1. The Licensing Authority does not have a policy to refuse outside of core hours.
Presumption to refuse/grant	There should be a presumption to refuse (suggested both inside and outside of the CIZ). Reference was also made to a presumption to refuse in conservation areas.	The Licensing Authority does not currently consider there to be enough evidence that this new type of operation contributes enough to cumulative impact to justify a presumption to refuse.
Explanatory text	The impact of centres for groceries and 'dark kitchens' should be highlighted in the explanatory text.	The explanatory text will be reviewed to make reference to dark kitchens, however the sale of groceries (apart from alcohol or late night refreshment) is not a licensable activity.
Predominantly residential	The same comments were made as in the responses to the deliveries policy.	See deliveries policy section above
Conditions	Paragraph X.65 (a condition requiring deliveries to be to a verifiable residential or business address and face to face ID verification, now paragraph x.69) should be a mandatory condition.	The Licensing Authority cannot impose mandatory conditions but will consider adding this to the suite of model conditions
Residents Consultation	Residents' consultation (in paragraph X.54, now paragraph) should be mandatory not voluntary and should also include details of how the design of any street-facing frontage is to be in keeping with the neighbourhood.	The Licensing Authority cannot mandate consultation outside of the requirements of the Licensing Act 2003.
Premises aesthetics	We would welcome confirmation that an LSC would take into account the aesthetics of the premises so that a holistic approach to Town Centre development is undertaken.	This is not a licensing matter
	WCC should assess whether the frontages of shops converted into warehouse/ fulfilment centres will blight a neighbourhood's high street. They should ensure the operator maintains a shop frontage that matches the historic look and feel of the street.	This is not a licensing matter
Knightsbridge Neighbourhood Plan	The core hours for restaurants contravene those set out in policy KBR 15 of the Knightsbridge Neighbourhood Plan to which WCC is a signatory.	Licensing and Planning are complimentary but distinct regimes with different aims , objectives considerations and outcomes.
Deliveries to public space	DC1(C) should be amended to specify that Deliveries to an 'other specified location' in unclear public areas, such as parks, communal areas, building receptions or on a property's threshold should be avoided and advertising of such services should be restricted. Rough sleepers should not be able to avail themselves of these services.	The policy sets what the Licensing Authority believes is acceptable, other situations will be considered on a case by case basis.

ID Checks	The ID Check, record and authentication process should be more robust	The Statement of Licensing Policy sets out the Licensing Authority's expectations regarding ID checks etc. It is for the operators to establish their own procedures, however more detailed conditions may be applied on a case by case basis should they be appropriate and proportionate .
Drivers' conduct	Vehicles/riders should be identifiable and the operator held jointly responsible for infractions.	This will depend on the nature of the infraction and the regulatory regime involved, the review process can be used to consider any breaches of a licence or licensing objectives.
	Waiting delivery agents should be hosted within the operator's facility.	This expectation is set out in the policy (paragraph X.59)
	An OMP should specify how many riders are expected outside a facility and where they will gather or mobilise.	The Licensing Authority agrees applicants should include this detail in the operating schedule.
Street Litter	Adequate on-site refuse storage space must be created to avoid waste being put out incorrectly on the street.	This is considered under the Public Nuisance Policy PN1
Delivery Consolidations	Deliveries should be consolidated off-site in order to avoid lengthy periods of congestion and disruption outside the proposed fulfilment centres.	This is considered under the Public Nuisance Policy PN1
Problem drinkers	Operators should not (continue to) deliver alcohol to problem addresses once notified by WCC and/or the police.	It is for the business to operate in accordance with any direction by the police where there is a risk to the promotion of the licensing objectives.

### Amendments to other policies

<u>Issue</u>	<u>Comment/Suggested Amendment</u>	<u>Proposed Response</u>
Hours	If OS1 is deleted, core hours for off-sales should remain the same	The Shops Policy (SHP1) has the same off-sales core hours as policy OS1
	Core hours should end at 8pm in the CIZ	This was considered as part of the previous revision of the Licensing Policy. The Licensing Authority is not minded to make this change at this time to provide regulatory certainty to businesses as they recover from the effects of COVID-19.
Restaurant definition	There is no need to clarify the definition of RNT1. A & B are clear that they can provide delivery services which comply with policy. This is not "takeaway... for immediate consumption"	The Licensing Authority considers that this amendment would help ensure clarity.

Shisha	We feel that shisha is capable of being addressed by the policy and should be, to protect residential amenity and safety.	Shisha is not currently a licensable activity. However, just like smoking, the actions flowing directly from this activity can potentially be dealt with under public nuisance Policy PN1.
Environmental objectives	The policy should be clearer about where environmental objectives are mandatory or voluntary.	The wording will be reviewed