

Appendix 2 - Proposed Revisions to the Council's Statement of Licensing Policy following Formal Consultation

Policies to be Inserted

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

- A. Applications for premises that intend to sell alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address, which is ancillary to the main use of the premises, will generally be granted subject to not being contrary to other policies within this Statement of Licensing Policy and that it meets the criteria below:**

Criteria

- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1**
- 2. The hours when delivery will take place is within the relevant Core Hours for that premises use,**
- 3. The delivery of alcohol and/or late-night refreshment to customers at their residential address or workplace will be ancillary to the main premises use,**
- 4. The applicant has demonstrated that they will not add to cumulative impact if the premises are located within the West End Cumulative Impact Zone.**
- 5. The applicant has demonstrated that they have taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.**
- 6. That the applicant will,**
 - a. Implement their own age verification procedures for the sale and supply of alcohol for their delivery staff and ensure that they receive regular training in the company's age verification procedures, and/or**
 - b. ensure that any third party, to which they have contracted the delivery of alcohol and/or food has sufficient age verification procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.**
- 7. That the applicant will,**
 - a. implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery originates and at the delivery destination, and/or**
 - b. ensure that any third party, to which they have contracted their delivery service to have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and at the delivery destination.**

- B. Applications that do not meet the criteria in Clause A will be considered on their own merits, subject to other relevant policies within this statement and the following considerations:**

Considerations

1. ***The likelihood of the effect of the grant of the licence for the delivery of alcohol and/or late-night refreshment on the licensing objectives and whether the applicant has demonstrated that they will meet the criteria and considerations within policies CD1, PS1, PN1 and CH1.***
2. ***The proposed hours for the operation of the delivery service, whether they are beyond the Core Hours as set out in Policy HRS1 and if so, what are the reasons for the additional hours and what has the applicant proposed as measures that will mitigate or eliminate any potential impact on the licensing objectives.***
3. ***If the application is located within:***
 - (a) ***the West End Cumulative Impact Zone, have they demonstrated that they will not add to cumulative impact, or,***
 - (b) ***a designated Special Consideration Zone, have they demonstrated that they have taken account of the issues identified in that area and put forward proposed mitigation measures in relation to those issues in accordance with Policy SCZ1,***
4. ***Whether the premises are located within an area of residential accommodation and/or in close proximity to residential accommodation,***
5. ***Whether the delivery personnel are directly employed by the applicant or whether the delivery service will be provided by a third party,***
6. ***How will the applicant ensure that the operation of the delivery service, operated directly by them with their own staff does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act.***
7. ***If a third party will provide the delivery service on behalf of the applicant what are the contractual arrangements with that third party to ensure that the operation of the delivery service does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act,***
8. ***The operation and management of the proposed delivery service from the premises,***
9. ***The types of vehicles that will be used for the delivery of alcohol and/or late-night refreshment and whether they will likely create public nuisance,***
10. ***The history of the applicants operation of licensed premises and the premise's operation in relation to any impact on the licensing objectives, breaches of any terms and conditions of a licence, any reviews of a licence or offences committed under the Act,***
11. ***In addition to Sub-clause 6 and 7 above what measures the applicant or the third party providing the delivery service has put forward to mitigate the specific risk of public nuisance by the operation of the delivery service at the premises or at the end point of delivery,***
11. ***In addition to sub-clause 6 and 7 above what specific measures and processes the applicant or the third party providing the delivery service has put forward to mitigate the risk from the delivery of alcohol to children to ensure that they are protected from harm.***

C. *For the purposes of this policy premises uses are defined within the relevant premises use policies within this statement.*

Reasons for Policy DEL1

- X.1 *It is recognised that licensees may seek to provide a delivery service, either directly operated by them or provided via a third party. The availability of dedicated platforms for the ordering of food and drink has made it simpler for the customer to find what they want and to order it directly without leaving their home or place of work. This growing market has meant that a large number of licensed premises may now wish to provide food and drink deliveries as an ancillary activity to the main use of the premises. This market provided a valuable lifeline to many premises during periods when they were affected by COVID-19 restrictions.*
- X.2 *The sale and delivery of hot food and drink before 11pm and after 5am is not a licensable activity and therefore this policy would apply to premises that operate outside of these hours. However, the policy will apply to all premises that intend to provide alcohol for delivery no matter what time of the day.*
- X.3 *This policy is intended to apply to premises that provide a delivery service for alcohol and/or late-night refreshment which is ancillary to the main use of the premises. For example, this policy would apply to an existing licensed premise that intended to provide an alcohol and late-night refreshment delivery service from their venue if to enable it a variation of their licence was necessary. However, premises that intend to primarily operate as a delivery hub, with or without an ancillary or customer walk in retail element will not be considered under this policy. These types of operations will instead be considered under the Delivery Centre Policy DC1.*
- X.4 *The Licensing Authority is concerned with the growing levels of residential complaints and issues associated with public nuisance that is either generated at or in the general vicinity of the licensed premises where deliveries are collected or at the end destination where the delivery is made. Complaints often relate to noise from delivery personnel waiting around the licensed premises or from their delivery vehicles. Applicants must consider the potential impact of noise nuisance from delivery personnel and their vehicles at the licensed premises or at the end destination. Appropriate waiting areas inside the licensed premises must be provided to prevent delivery personnel congregating outside the venue.*
- X.5 *The applicant will be expected to consider where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not in contravention of the Road Traffic Act. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be located in a place that is likely to cause nuisance to residents. Premises that are located in an area of residential accommodation or are in close proximity to residential accommodation, e.g. have residential properties immediately above them must consider the impact that this can have on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider the use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise.*
- X.6 *The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to*

ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.

- X.7 Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.
- X.8 The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements, encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.
- X.9 The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:
- Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.
- Remodelling. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.
- Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.
- X.10 Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.
- X.11 Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.

- X.12 *Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants can ensure that this is done through appropriate information and training to delivery personnel, the provision of a waiting area inside the licensed premises for delivery personnel, adequate bins outside the premises and additional street cleaning around the premises by the licensee.*
- X.13 *The applicant should ensure that delivery personnel have access to toilet provisions within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces in and around the licensed premises. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.14 *Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.*
- X.15 *Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.16 *The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility for alcohol to be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or failed age verification.*
- X.17 *Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*
- X.18 *There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance or a possibility that underage persons can gain access to alcohol.*
- X.19 *Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.*

X.20 *While the Licensing Authority recognises this is a growing area of business, new or variation applications that include the delivery of alcohol off the premises will be subject to increased scrutiny.*

Shops Policy – SHP1

A. Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:

- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.**
- 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.**
- 3. The operation of any delivery services for alcohol meeting the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.**
- 4. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.**
- 5. The application and operation of the venue meeting the definition of a shop in Clause C.**

B. Applications for a shop inside the West End Cumulative Impact Zone will be considered on their own merits and subject to:

- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.**
- 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.**
- 3. The operation of any delivery services for alcohol meeting the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.**
- 4. The applicant having demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.**
- 5. The application and operation of the venue meeting the definition of a shop in Clause C.**

C. For the purposes of this policy:

- 1. a shop is defined as a stall, vehicle, vessel, temporary structure, building or part of a stall, vehicle, vessel, temporary structure or building where the primary activity is the sale of goods or services to customers upon payment.**
- 2. the licensable activities for the sale of alcohol for consumption on the premises, regulated entertainment and/or late night refreshment must be ancillary to the primary use of the premises as a shop.**
- 3. the licensable activity of the sale of alcohol for consumption off the premises must be an ancillary function to the primary use of the premises unless that primary use is to sell alcohol for consumption off the premises, e.g. a traditional off licence.**

Reasons for Policy SHP1

X.21 *Westminster offers an unparalleled range of shops ranging from small units to large department stores. The West End and Knightsbridge are International Centres providing London's prime retail destinations offering specialist and comparison retail*

of regional and national importance that draws in international visitors. The West End International Centre includes Oxford Street, Regent Street and Bond Street, while Knightsbridge International Centre includes Brompton Road and extends beyond the city boundary in the Royal Borough of Kensington and Chelsea. Westminster attracts international retail brands to our City due to its unique historic character and the large number of domestic and international visitors.

- X.22 *Recent changes in the Use Class Order under planning legislation recognise that to ensure long-term sustainability, town centres and high streets need to be able to adapt to changing consumer demands and behaviours. These changes combine several town centre uses under a new Class E (commercial, business and service uses) with the aim of enabling a shift towards mixed-use and multi-purpose spaces.*
- X.23 *The Council's City Plan and this policy support the evolution of Westminster's town centres and high streets as multifunctional commercial areas where a mix of commercial uses provide activity at street level and creates a welcoming, attractive and healthy environment for people to shop, access services, work and spend leisure time.*
- X.24 *The Licensing Authority recognises that shop operators need to continually evolve to compete with online retailers as well as keep existing customers and attract new ones into their stores. As part this evolution shops often seek to provide other activities within their premises that will help them achieve this. This can include activities that are licensable.*
- X.25 *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. Operators must manage the provision of licensable activities in a responsible way so as to ensure that those activities do not adversely change the character of the premises main use as a shop.*
- X.26 *This policy is intended to apply to premises offer the retail sale of goods or provide services to customers as the primary use of the premises. Common examples of a premises that would be considered under this policy will include traditional off licences, speciality stores, supermarkets, department stores, general stores, boutique, outlets, delicatessens, butchers, grocers, hairdressers, massage parlours, or anything of a similar nature where the primary use is the purchase of goods by customers or to provide a service. Cafes, coffee shops or similar venues providing food for takeaway or for consumption on the premises will be considered under either the Fast-Food Premises or Restaurant policies. The sale of alcohol for consumption off the premises can form the primary function of the premises, e.g. traditional off licences. However, 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.*
- X.27 *The Licensing Authority will generally grant applications outside the West End Cumulative Impact Zone that are within Core Hours as set out in the policy HRS1, subject to not being contrary to other policies in the licensing statement. Applications within the West End Cumulative Impact Zone will be considered on their own merits and subject to the specific considerations of this policy, including whether the premises would add to cumulative impact in the area.*

- X.28 *Revised Guidance recommends that shops 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. This is in the context of paragraph 10.13 of Revised Guidance which states that licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on local knowledge and in consultation with responsible authorities.*
- X.29 *The hours when shops can start to sell alcohol for consumption off the premises will be specifically considered when determining applications. This is because problematic street drinkers, and other people who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning and create public nuisance.*
- X.30 *There are problems of street drinking found across the city. While there are some areas with recurring problems of street drinking 'schools', they also crop up in different areas at different times and seasons. Shops selling alcohol can be a focus of antisocial behaviour, disorder, and disturbance. These include the day-long consumption of alcohol on the street and in open spaces by groups of drinkers who cause various types of public nuisance and engage in antisocial behaviour. In the Victoria Special Consideration Zone, for example, new licences for the off sale of alcohol will be considered in the light of the problems of street drinking in that area and may be restricted in their numbers and have conditions imposed on their management and supervision.*
- X.31 *If there are significant concerns associated with street drinkers in the area the Licensing Authority may impose conditions that there should be no sale of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 5.5% alcoholic content by volume). Other conditions may be imposed directed at reducing problematic street drinking. There will be concerns over irresponsible drink promotions that do not follow best practice, that would appeal to underage drinkers or street drinkers or encourage excessive consumption.*
- X.32 *Some shops selling alcohol in Westminster's commercial and residential areas have been a focus for anti-social behaviour, disorder and disturbance. This has been caused by street drinkers and underage drinkers who have tried to obtain or have obtained alcohol from such premises. Due to these concerns over crime, disorder and disturbance, the Licensing Authority will not, as a general rule, grant applications for the 24- hour sale of alcohol for consumption off the premises for premises outside the West End Cumulative Impact Zone. It will consider seriously any representation made by the police, other responsible authorities, and relevant representations from other persons and will consider Policy HRS1 in determining applications.*
- X.33 *The Council has introduced a controlled drinking zone across the whole city, by making Orders to give police powers to stop street drinking and seize alcohol and receptacles under the powers of the Criminal Justice and Police Act 2001. Originally it introduced such a zone in the south of the city centred on Victoria. It extended this zone northwards in April 2004, acknowledging that the problems were widespread and that the awareness of the boundary of the zone gave rise to drinkers congregating just outside it. Short term Dispersal Zones have also been used in various parts of the city to break up street drinking "schools" and disrupt patterns of street drinking. These Orders continue to be in force under the Crime and Policing Act 2014.*

- X.34 *Where the police or others make representations against the grant of a further licence for off-sales, because of their serious concerns over problems of street drinking or late-night disorder associated with the off sale of alcohol in the area, the Licensing Authority will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. This is to hinder both underage drinkers and problematic street drinkers masking their consumption by purchasing from a series of premises and using a number of premises to try to buy alcohol if they are refused in one.*
- X.35 *Where there are representations on problems of late-night disorder (these are generally within the West End Cumulative Impact Zone) the hours for the sale of alcohol on and/or off the premises may be conditioned to be less than core hours.*
- X.36 *In appropriate cases, the hours of selling alcohol for consumption off the premises may be conditioned to cease before the terminal hour of premises in the vicinity supplying alcohol for consumption on the premises. This is to discourage the consumption of alcohol on the streets after premises in the vicinity which sell alcohol for consumption on the premises have closed.*
- X.37 *Whilst it is likely that shops providing licensable activities beyond core hours may add to cumulative impact in the West End Cumulative Impact Zone the Licensing Authority is not, at this time, going to implement a general presumption against new licences for shops, or restrict their hours below the current core hours as set out within the Council's Core Hours Policy HRS1. The restriction of premises to core hours, the requirement on applicants to demonstrate how their operation will not add to cumulative impact and the imposition of conditions can be an effective means of promoting the licensing objectives. However, this will be considered on a case by case basis and upon their own merits.*
- X.38 *The proliferation of premises for the sale of alcohol off the premises is of concern if it leads to consumption of alcohol on the streets or being carried into premises licensed to sell alcohol on the premises. In light of the evidence it has considered, the Licensing Authority is concerned that alcohol loading from off-licence sales is a significant problem, particularly within the West End and adversely affects the licensing objectives.*
- X.39 *It is accepted that shops may wish to include areas within their premises where customers can eat and drink. The sale of alcohol on the premises must be an ancillary function to the main use of the premises. Applications that include the sale of alcohol for consumption on the premises will need to ensure that adequate measures are put forward to ensure that this activity will not adversely impact the licensing objectives. Applications within the West End Cumulative Impact Zone that wish to sell alcohol for consumption on the premises beyond 9pm will also need demonstrate that they will not add to cumulative impact in the area.*
- X.40 *This policy is intended to enable a limited provision for the sale of alcohol for consumption on the premises in shops. Shop environments, their operation and management and staff are likely not able to manage significant sales of alcohol consumption and the potential adverse impacts that it can cause. The licensing authority seeks to ensure that shops do not turn into premises that offer significant amounts of alcohol for consumption on the premises. This policy sets out a limit to the total amount of alcohol sales that can be provided for consumption on the premises and to ensure that such sales are indeed ancillary to the main use as a shop.*

- X.41 *Where appropriate, the Licensing Authority may condition premises licences determined under this policy 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.*
- X.42 *The provision of entertainment, such as live music can provide a significant draw to a premises. Entertainment can add to the experience of shopping at the premises which elevates it above its competitors. Shop operators who wish to provide regulated entertainment on their premises must ensure that this is an ancillary function to the main use of the premises as a shop. Adequate measures must be included in the applications operating schedule to ensure that the entertainment will promote the licensing objectives. Particular attention will need to be given to the impact of noise and ensure public safety. Entertainment of an adult nature must not be provided in shop that is often frequented by children or families. Applications wishing to provide entertainment that is directed at adults must ensure that children are protected and access to children is restricted. In certain circumstances the adult entertainment may be regulated and require an additional authorisation from the Licensing Authority.*
- X.43 *The sale of alcohol from shops can be a small part of their overall business or, in the case of traditional off licences, can be their primary products. Applicants will be expected to ensure that the sale of alcohol is adequately managed to ensure that alcohol is not sold to anyone under the age of 18. The Licensing Authority will expect applicants to implement think 21 or think 25 policies associated with age verification. Staff training is also extremely important to reduce the risk that alcohol will be sold illegally. The Licensing Authority will take a robust approach to any licensee who knowingly or negligently sell or enables the sale of alcohol to children.*
- X.44 *The Licensing Authority will impose, where appropriate to promote the licensing objectives, conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18, Licence holders of smaller outlets need to have sufficient day to day control of operations. They can be held responsible for breaches of the licence and that they have not provided adequate staffing and training.*
- X.45 *The sale of alcohol to underage young people, which, apart from being a criminal offence, gives rise to disorder, public nuisance and concerns over public safety and harm to children. The sale of alcohol to people who consume it on the way to other premises gives rise to problems of drunkenness and disorderly behaviour.*
- X.46 *The Council and police will continue to use young people for test purchasing of alcohol and CCTV, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of review of licences for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder and, where appropriate, revocation.*
- X.47 *The Licensing Authority will expect applications to set out within their operating schedule how the premises will operate, where licensable activities will take place, what conditions and mitigation measures they propose to ensure that the premises promotes the licensing objectives, the training procedures and staffing levels within the premises and the types, quantities and whether alcohol is high strength; and where and how alcohol will be securely stored.*

Delivery Centre Policy DC1

- A. Applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1,**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1,**
 - 3. The applicant having taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone,**
 - 4. The premises are not located in a predominantly residential area, and**
 - 5. The application and operation of the venue meeting the definition of a delivery centre in Clause D.**
- B. Applications for a delivery centre within the West End Cumulative Impact Zone will be considered on their own merits and subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1,**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1,**
 - 3. The applicant having demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone,**
 - 4. The premises are not located within a predominantly residential area, and**
 - 5. The application and operation of the venue meeting the definition of a delivery centre in Clause D.**
- C. Applications that do not meet Clause A or B will be considered on their own merits, subject to other relevant policies within this statement and the following considerations:**
- 1. The likelihood of the effect of the grant of the licence for a delivery centres on the licensing objectives and whether the applicant has demonstrated that they will meet the criteria and considerations within policies CD1, PS1, PN1 and CH1.**
 - 2. The proposed hours for the operation of the delivery centre, whether they are beyond the Core Hours as set out in Policy HRS1 and if so, what are the reasons for the additional hours and what has the applicant proposed as measures that will mitigate or eliminate any potential impact on the licensing objectives and residents in the vicinity of the premises.**
 - 3. If the application is located within:**
 - (a) the West End Cumulative Impact Zone, have they demonstrated that they will not add to cumulative impact, or,**
 - (b) a designated Special Consideration Zone, have they demonstrated that they have taken account of the issues identified in that area and put forward proposed mitigation measures in relation to those issues in accordance with Policy SCZ1,**
 - 4. Whether the premises are located within a predominantly residential area and if so:**
 - (a) whether the applicant has engaged with local residents and/or local resident/amenity societies on the proposed application and the operation of the premises prior to submitting the application to the Council, and**

- (b) *whether the applicant has put forward sufficient control measures within the operating schedule to mitigate or eliminate the potential impact on residents in the area and the licensing objectives that have been identified as part of the pre-application engagement with residents or following receipt of relevant representations following the statutory consultation period.*
5. *Whether the delivery personnel working from the delivery centre are directly employed by the applicant or whether the delivery service element of the operation will be provided by a third party,*
 6. *How will the applicant ensure that the operation of the premises and the delivery service, operated directly by them with their own staff does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act.*
 7. *If a third party will provide the delivery service element of the operation on behalf of the applicant what are the contractual arrangements with that third party to ensure that the operation of the delivery service from the delivery centre does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act,*
 8. *The operation and management of the proposed delivery centre from the premises,*
 9. *The types of vehicles that will be used for the delivery of alcohol and/or late-night refreshment and whether they will likely create public nuisance,*
 10. *When will deliveries to the delivery centre or waste collection take place.*
 11. *The history of the applicant's operation of licensed premises and the premise's operation in relation to any impact on the licensing objectives, breaches of any terms and conditions of a licence, any reviews of a licence or offences committed under the Act,*
 12. *In addition to Sub-clause 6 and 7 above what measures the applicant or the third party providing the delivery service has put forward to mitigate the specific risk of public nuisance by the operation of the delivery service at the premises or at the end point of delivery,*
 13. *In addition to sub-clause 6 and 7 above what specific measures and processes the applicant or the third party providing the delivery service has put forward to mitigate the risk from the delivery of alcohol to children to ensure that they are protected from harm.*
- D. *For the purposes of this policy a delivery centre is a premises that's primary function is to temporarily store alcohol and/or to prepare hot food and hot drink, so that it is available when ordered for transportation to a customer's residential or workplace location.*
- E. *For the purposes of Clause A.4. B. 4. and C reference to 'a predominately residential area' means an area of the City in which housing is the predominant use.*

Reasons for Policy DC1

- X.48 *There has been a growing interest from businesses seeking to find a location within Westminster where they can store and distribute alcohol and/or late-night refreshment to customers at home. This includes so called 'dark kitchens' where*

food is prepared for delivery only. The operation of the delivery service to customers will be the primary use of the premises. In some cases, applicants may offer an ancillary retail element to their operation for click and collect customers. This policy is only intended to apply to applications where the primary use of the premises is the storage, preparation, and delivery of alcohol and/or late-night refreshment to customers residential properties or places of work. Where a business intends to provide a delivery service as ancillary to their main operation, for example a traditional off licence or restaurant then they will be considered under the relevant premises use and the ancillary alcohol and/or late-night refreshment delivery service policies.

- X.49 *The majority of businesses that operate a delivery service as their primary function will take orders, including those for alcohol and/or late-night refreshment via their own websites or via a third-party site, dedicated mobile applications and/or telephone centres. The fulfilment of the contract of the sale of alcohol and/or late-night refreshment will require a licence. For example, the location of the call centre, if located in a different location from the place where the alcohol and/or late-night refreshment is provided will not require a licence from the Licensing Authority. However, the location where the alcohol is stored, or the food for late night refreshment is prepared and packaged for delivery to customers at their homes or workplaces would require a licence. For example, a warehouse where alcohol is picked and then sent directly to delivery to a customer at home would require a premises licence under the Act for the sale of alcohol for consumption off the premises.*
- X.50 *The Licensing Authority is concerned with the potential impact of the operation of distribution or delivery centres within residential areas. The Council has seen growing levels of complaints and issues associated with the impact of delivery services within the City. Most complaints relate to the noise generated by delivery personnel and their vehicles. The Council has also had complaints about littering and street urination by delivery personnel. Applicants must consider the potential impact of noise nuisance from delivery personnel and their vehicles at the licensed premises or at the end destination. Appropriate waiting areas inside the licensed premises must be provided to prevent delivery personnel congregating outside the venue.*
- X.50 *Delivery centres will require regular deliveries to them to maintain stock levels for the delivery of those goods to residents. These centres are likely to generate additional noise depending on the time and day of the delivery, the types of vehicles that are used for delivering goods to the centre e.g. refrigeration vehicles and how they are unload and loaded.*
- X.51 *Applicants that intend to operate a delivery centre that provides licensable activities must consider the likely impact of their operation on residents within the vicinity of the premises, where delivery personnel gather or park their vehicles and when completing their delivery. Applicants have a responsibility to ensure that they promote the licensing objectives. Applicants will be expected to specifically explain the operation of their distribution and delivery service and how they will prevent or mitigate the impact on the licensing objectives.*
- X.52 *Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.*

- X.53 *Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.54 *Consideration must be given to where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not parked illegally. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be in a place that is likely to cause nuisance to residents. The use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise could also be considered.*
- X.55 *Applications will generally be granted outside the West End Cumulative Impact Zone, if the application meets the criteria and considerations of this policy, is made within Core Hours and subject to other policies within this statement . Applications within the West End Cumulative Impact Zone will be considered on their own merits and subject to other policies within this Statement.*
- X.56 *Applications outside the West End Cumulative Impact Zone that seek hours beyond those specified within the Council's Core Hours Policy and are not located within a predominantly residential area will be considered on their own merits. Applicants who apply for premises located within a predominantly residential area for hours beyond that specified within the Council's Core Hours Policy HRS1 will be expected to provide significant mitigation and propose conditions that would ensure that the premises can operate in a way that will promote the licensing objectives and not adversely impact residents in the vicinity. Applicants in such areas are expected to have engaged with residents and local resident or amenity associations to explain their application and consider any concerns they may have prior to making an application to the Council.*
- X.57 *When determining whether or not an area is predominantly residential, the Licensing Authority will take into account the relationship with neighbouring uses. Although not bound by the City Plan 2019-2040 the Licensing Authority will be guided by its contents as well as other considerations. For example, the City Plan's definition of 'predominantly commercial neighbourhoods (p 210) and the network of town centres (p77, fig 15, Town Centre Hierarchy) may be relevant. The Licensing Authority will be mindful of the residential nature of many parts of the city, although the simple presence of residential units may not by itself be sufficient to be considered predominantly residential.*
- X.58 *The area in question will be the area in the vicinity of the premises that could reasonably be expected to be impacted by the venues operation. For example, a residential premises on the same road as a delivery centre might be impacted by the number of delivery vehicles leaving and arriving at the venue. However, as you get further from the venue this may reasonably be considered part of everyday traffic therefore neighbouring roads may not necessarily be considered part of the relevant area. Each case will be decided on its own merits.*

- X.59 *Premises that are located in predominantly residential areas must consider the impact of their operation on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider whether the location for this type of operation is suitable and if so, they will need to demonstrate how they may mitigate the impact on residents and the licensing objectives.*
- X.60 *The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.*
- X.61 *Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.*
- X.62 *The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements and encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.*
- X.36 *The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:*
- Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.*
- Remodelling. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.*
- Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.*
- X.64 *Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from*

recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.

- X.65 *Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.*
- X.66 *Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants must provide appropriate information and training to delivery personnel on littering, they should provide adequate waiting areas inside the premises for delivery personnel, provide adequate bins outside the premises or in areas where delivery personnel wait for their job and where necessary provide additional street cleaning around the premises.*
- X.67 *The applicant should ensure that adequate toilet provision is provided within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces within Westminster. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.68 *Applicants will be expected to have a robust disciplinary process in place for their own staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street.*
- X.69 *The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility of the alcohol be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or fail age verification.*
- X.70 *Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*
- X.671 *There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance, or a possibility that underage persons can gain access to alcohol.*

- X.72 *Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face-to-face ID verification is vital in mitigating some of this risk.*

Policies to be Deleted

Off Sales of Alcohol Policy OS1 and references throughout.

Policies to be Amended

Core Hours Policy HRS1

Insert:

- 3. Delivery Centres**
Monday to Saturday: 8am to 11pm.
Sunday: 9am to 10.30pm
- 10.a Shops (all licensable activities that are provided as ancillary to the primary use of the premises as a shop except the off sale of alcohol)**
Monday to Thursday: 9am to 11.30pm
Friday and Saturday: 9am to 12am.
Sunday: 9am to 10.30pm.
Sundays immediately prior to a bank holiday: 9am to 12am.
- 10.b Shops (off-sales of alcohol where it forms either the ancillary or primary use of the premises)**
Monday to Saturday: 8am to 11pm
Sunday: 9am to 10.30pm
- E.?? Westminster offers an unparalleled range of shops ranging from small units to large department stores. Shops will continually seek to provide a greater offer to their customers so that they will prolong the time customers spend in their premises and the opportunity to increase revenue. The evolution of shops is also essential to enable premises-based retailers or service providers to compete with online competitors. The Licensing Authority recognises that shop operators need to continually evolve and to achieve this may seek to provide licensable activities for their customers. This may be via entertainment, the sale of alcohol for consumption on the premises or the provision of late-night refreshment.*
- E.?? The Core Hours for shops has been split into two elements. The first set of core hours apply to shops that intend to provide licensable activities, other than the off sale of alcohol as an ancillary function to the primary use of the premises. The second set of hours, which are more restrictive are specifically for the sale of alcohol for consumption off the premises. The Licensing Authority is specifically concerned with the availability of alcohol for consumption off the premises due to the risks on the licensing objectives, particularly relating to street drinking issues and pre-loading of alcohol before entering pubs, bars and clubs.*

Fast Food Premises Policy FFP1

Insert sub-clause within both Clause A and C which states:

The operation of any delivery services for alcohol and/or late-night refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

Insert the following new sub-clause within Clause D of Policy FFP1

A fast-food premises can provide a delivery services as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.

Restaurants Policy RNT1

Insert sub-clause within both Clause A and B that states:

The operation of any delivery services for alcohol and/or late-night refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

Amend sub-clause 3 of Clause C to include reference to ancillary deliveries to customers at their residential or workplace address (shown in red) as follows:

- 3. Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.***

Amendments to other premises use policies

Insert sub-clause within both clauses A and B of policies CAS1, CCSOS1, COMB1, HOT1, QUC1 and SCEV1 and Clauses A and C of policies, PB1 and MD1

The operation of any delivery services for alcohol and/or late-night refreshment meeting the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.