



City of Westminster

Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 22nd March, 2017**

Time: **10.00 am**

Venue: **Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP**

Members: **Councillors:**

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

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

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 9.00am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



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**Email: jdeacon@westminster.gov.uk Tel: 020 7641 2783
Corporate Website: www.westminster.gov.uk**

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

AGENDA

PART 1 (IN PUBLIC)

1. DECLARATIONS OF INTEREST

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

2. MINUTES

To sign the minutes of the meeting held on Wednesday 30 November 2016 as a correct record of proceedings

(Pages 1 - 10)

3. CITIZENS ADVICE BUREAU LICENSING PROJECT ACTIVITY REPORT 2016

Report of the Director of Policy, Performance and Communications

(Pages 11 - 30)

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

Report of the Director of Policy, Performance and Communications

(Pages 31 - 36)

5. LICENSING COMMUNICATIONS STRATEGY

Report of the Director of Policy, Performance and Communications (to follow)

a) **Report**

(Pages 37 - 42)

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

Report of the Director of Public Protection and Licensing

(Pages 43 - 58)

7. LICENSING ACT 2003 DELEGATED OFFICER DECISIONS 2016/17

Report of the Director of Public Protection and Licensing

(Pages 59 - 70)

8. LICENSING APPEALS

Report of the Director of Law.

9. NOTTING HILL CARNIVAL

An oral update will be provided at the meeting

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

11. FUTURE LICENSING COMMITTEE MEETING DATES

5 July 2017, 29 November 2017 and 21 March 2018.

(Pages 71 - 76)

**Charlie Parker
Chief Executive
17 March 2017**

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CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 30th November, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Nickie Aiken (Chairman), Heather Acton, Susie Burbridge, Peter Freeman, Murad Gassanly, Angela Harvey, Louise Hyams, Tim Mitchell, Jan Prendergast and Aziz Toki

Apologies for Absence: Councillors Rita Begum, Melvyn Caplan, Nick Evans, Jean-Paul Floru and Shamim Talukder

1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2 MINUTES

2.1 The minutes of the Licensing Committee meeting held on 21 September 2016 were agreed as a correct record and were signed by the Chairman.

2.2 Councillor Angela Harvey had sought clarification at the previous meeting of the Committee as to whether the Council's legal representatives had previous experience of taking forward cases in the European Court of Justice. Mr Panto, who had not been in attendance at the previous meeting, informed Members at the current meeting that David Matthias QC had represented the Council in the CJEU in respect of the Hemming case. He has extensive licensing experience, including representing the Council for its licensing appeals. Mr Panto stated it was his understanding that this was Mr Matthias' third matter which had reached the CJEU (he clarified that it may have been that Mr Matthias had not appeared on each occasion as it was believed a case may have been withdrawn). He added that it was Mr Matthias' first case at the CJEU under the terms of the Licensing Act 2003. The Committee noted that it was also believed to have been Philip Kolvin QC's first licensing case at the CJEU, when he represented Hemming and others versus the Council. He also has extensive experience of licensing matters.

3 LICENSING FEES REVIEW 2017/2018

- 3.1 Kerry Simpkin, Licensing Team Manager, introduced the report. He stated that the report set out proposed fees for licensing regimes where the Council has the power to set its own fees for 2017/18. He wished to emphasise that there were other fees that would be brought before the Sub-Committee at a later date such as the street trading fees.
- 3.2 Mr Simpkin advised that the fees were being set at a level which would enable the Council to recover its costs in managing and administering the licensing regimes. It was proposed that the fees would come into effect from 1 January 2017. He referred to the fees which had increased or decreased from the levels from agreed by the Committee in November 2015 and introduced in January 2016. The majority of fees had been subject to an increase. The licensing fees for premises that provide special treatments within the borough had increased significantly last year as part of the fee review. It was proposed that as part of this year's review, fee levels for new, renewal, transfer and confirmation of provisional licence applications would be reduced. Mr Simpkin added that all applicants would be informed of any changes to the fees for the various licensing regimes prior to 1 January 2017.
- 3.3 The Chairman thanked officers for all the time and effort they had put in to calculate the fees. She had worked with them and was able to vouch for the fact that the levels set were a true reflection of the work of the officers in relation to the various licensing regimes. The Committee made a number of points and asked Mr Simpkin a number of questions regarding the fees, including the following:
- Councillor Freeman asked whether there was an upper limit for the setting of fees. Mr Simpkin replied that the only set of fees that is capped is the gambling premises licences. Local authorities were required to assess all other fees.
 - Councillor Gassanly welcomed that it was proposed that fee levels for new, renewal, transfer and confirmation of provisional licence applications for special treatments would be reduced. He asked whether there was a reason for Westminster setting higher fees than some neighbouring boroughs, including in relation to special treatment licences. Mr Simpkin responded that fees were set based on the Council's costs. It was difficult to compare other Councils as they might have a different model in terms of costs, salaries etc. He stated that in respect of special treatment licences, officers were exploring whether to base specific fees for special treatments on a number of criteria, including what was involved with the different types of treatments provided and the risk assessment required. This would require significant additional administrative work. At the moment there was a flat fee based on average costs for the special treatments.
 - Councillor Mitchell in his capacity as the Cabinet Member for Finance and Corporate Services made the point that it was important that there was full cost recovery and that it was unfair if residents were asked to subsidise businesses. He welcomed that there was a consistent system in place to review fees.

- Councillor Harvey asked whether it was specifically possible to set different fees for small, medium and larger businesses and assist those attempting to establish smaller businesses. Was more enforcement required for larger businesses? Councillor Burbridge also put forward the idea of a discount for new businesses in their first year. Mr Simpkin replied that it would be good to reduce fees for smaller businesses. However, smaller businesses often cost more as they regularly required a lot more work in terms of enforcement and compliance. The concept of different fee levels for specific types of businesses was something that officers would continue to look at going forward.
- Councillor Acton asked why the costs for riding establishments had risen. Mr Simpkin stated that there was a legal requirement for them to be inspected on a yearly basis. The Council had not prior to 2016 charged for costs associated with the vet inspections. The vets' fees had increased and it had been necessary for the Council to pass these on. There was also a greater involvement in terms of staff time as previously the vet had carried out more of the administrative work.
- Mr Simpkin was asked about the costs for the zoo. He stressed that the figure quoted in the report is for a six yearly licence. The DEFRA inspection costs which needed to be absorbed as part of the costs amounted to approximately £1100 per year.

3.4 The Chairman made the point that any suggestions relating to assisting small businesses needed to be raised with the Cabinet Member for Housing, Regeneration, Business and Economic Development.

3.5 **RESOLVED:** That the proposed fees attached to the report as Appendix 1 be approved commencing 1st January 2017.

4 REVISION OF STANDARD CONDITIONS FOR STREET TRADING LICENCES AND PENALTY POINT SCHEME

4.1 At the previous meeting of the Licensing Committee in September, the Licensing Committee approved that all holders of street trading licences and their associations would be consulted on a proposal to revise the standard conditions that apply to their licences and also the penalty point scheme that is used to enforce the standard conditions. Robin Grey, Senior Licensing Officer (Street Trading) confirmed that since the previous meeting of the Committee, the consultation process had taken place. The concerns of the West End Street Trading Association made during the consultation period had been addressed by the amendments included in the proposed conditions that were set out in Annex A of the Committee report and also as a result of the three additional amendments to Annex A of the Committee report (conditions 22, 42 and 49) which were set out in paragraph 1.2 of the updated report.

4.2 Mr Grey stated that there was one remaining objection from the Green Park Arts & Crafts Association. As set out in the report, condition 23 required 'that the trader shall, at all times that they are trading, display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently exhibited on the stall together with the name or business

name of the trader'. The objection, due to safety and security concerns, had related to the trader's name and photograph being displayed on the licence plates. The Committee was advised that the licence plates were intended to demonstrate to the public that the trader is licensed and has been approved by the Council to operate at the location. Mr Grey informed Members that there was no change in the meaning of the condition from that set out in condition 13 of the existing standard conditions and officers were not proposing to amend the proposed condition 23 in Annex A.

- 4.3 The Committee considered it appropriate to agree the amended recommendations set out in paragraph 2.1 of the updated report.
- 4.4 **RESOLVED:** (i) That conditions 22, 42 and 49 of Annex A of the Committee report be replaced with the conditions set out in paragraph 1.2 of the updated report;
- (ii) That the Committee prescribe the standard conditions set out in Annex A of the Committee report with the amendments referred to in (i) above that will apply to all street trading licences pursuant to section 10(1) of the City of Westminster Act 1999 and that will replace the existing standard conditions that have applied to all street trading licences since 15 March 1999, once they come into force; and,
- (iii) That the Committee recommend to the Cabinet Member for Housing, Regeneration, Business and Economic Development that the schedule to the penalty point scheme is replaced with the table set out in Annex E of the Committee report as and from the date that the revised standard conditions come in to force.

5 WESTMINSTER LICENSING STANDARD/CHARTER AND LOCAL ALCOHOL ACTION AREAS APPLICATION

- 5.1 The Chairman stated that she, Richard Cressey, Principal Policy Officer and officers in the Licensing Service had been working with the entertainment industry since the start of the financial year to develop a voluntary Westminster Standard or Charter which promotes responsible behaviour amongst licensees and sets the standard in terms of caring for the welfare of their patrons and being good neighbours. As set out in the report, this was a core commitment of City For All: Year 2.
- 5.2 Mr Cressey referred to the progress being made. This included that there was a good working partnership with Heart of London Business Alliance who were keen to support the Council with this initiative in the Leicester Square/Piccadilly Circus area. Mr Cressey advised that there was already good practice in the area. The Council was looking to build on that, refresh how it worked with the trade and support the businesses to operate improved collective management standards. It was hoped that this would result in the area becoming even more profitable and marketable, as well as better managed. He had set out in the report what the Council was asking the

industry to do, including signing up to voluntary schemes which exist in other cities such as Best Bar None.

5.3 Mr Cressey stated that as part of these discussions with the industry, the businesses were saying that they were prepared to support the initiatives but that they were seeking a commitment from the Council and Police as to how they would support them to achieve the well managed environment. He added that there were proposals in the report which explored possible innovations in approach and policy and he was seeking a steer from the Committee. These included reforming how the Council and Police identify problem premises by using a wider range of factors than purely crime data such as phone thefts. This was something the industry had been requesting for some time. Training and support was already being provided to licensing premises but this could be increased. There was an opportunity for more partnership working which was being trialled in Carnaby Street / Kingly Street as well as Leicester Square / Piccadilly Circus.

5.4 Members responded to the points raised by Mr Cressey in the report and at the meeting, including the following:

- The Chairman stated that she concurred with the view that there were well run premises where there were reported phone thefts which identified them as problem premises. On the other hand there were premises which were appallingly run and had not been identified as problem premises due to a lack of crime data. Councillor Mitchell made the point that it could be a sign that premises were well run if they encouraged crimes to be reported correctly. There were instances where staff removed patrons from their premises so that they were drunk and disorderly on the street.
- Councillor Hyams asked whether there were any downsides from drawing in and coordinating support from voluntary schemes such as Drinkaware Crew and Street Pastors. It sounded like a positive idea. Mr Cressey replied that in some cases the downside was the cost which it would be necessary for the industry to meet. The Drinkaware Crew would be members of staff that were employed by premises. This would not be imposed on the industry but the Council would be encouraging businesses to see the benefits of the scheme. The role of the Drinkaware Crew, which is a national body, typically includes overseeing a queue going into a nightclub, identifying where patrons had left bags or phones in order to reduce the potential for crime and aiding dispersal of patrons to reduce the potential for public nuisance. They were willing to offer training free as they were keen to be involved in the borough. Mr Cressey informed those present that there were Street Pastors in Westminster currently but not in the trialled areas. A discussion would potentially need to take place with the Business Improvement Districts about whether to introduce Street Pastors in these areas. Conversations had taken place with the Police about a focal point or hub where information is provided and Street Pastors give medical treatment. The Police had hosted an information hub of this type during this year's Pride celebrations. Councillor Hyams expressed the view that these schemes should be trialled.

- The Committee noted the section of the report which referred to the Local Alcohol Action Areas. Councillor Harvey asked whether it was possible to capture the data of the cost of private individuals who became excessively drunk and ended up in Accident and Emergency ('A&E'). Mr Cressey responded that the reason reducing alcohol-related health harms had not been selected as an objective was that the data was particularly difficult to obtain. It had been stated in the Council's application to the Home Office that this would be monitored where possible. It was possible to obtain ambulance service data as it was monitored where people were picked up from. The A&E data was not as useful as it monitored where the individual resided and not where they were collected. Mr Cressey added there was some ongoing work that needed to be taken forward with the health service so that the data was gathered in an appropriate way.

5.5 **RESOLVED:** (i) That the contents of the report be noted; and

(ii) That officers take into account the views of the Committee as set out above.

6 LICENSING APPEALS

6.1 The Committee noted the most recent information in respect of appeals which had been submitted in relation to decisions taken by the Licensing Sub-Committee. One appeal for Press, 32-34 Panton Street had been withdrawn by the Appellant and costs had been paid to the City Council in February 2016. At a subsequent Case Management Hearing in October, individual directors were required to pay costs as appeal proceedings had been pursued even though they had been aware that the Appellant was insolvent.

6.2 Two appeals had recently been scheduled. One for Chutney Mary, 72-73 St James's Street is due to be heard in February 2017. An appeal for 28th floor and 29th floor, Millbank Tower is due to be heard at the end of March / beginning of April 2017.

6.3 The report also set out the implications of the Court of Justice of the European Union's judgment in the case of Hemming and others v Westminster City Council which had been handed down on 16 November.

6.4 The Chairman requested that in addition to having a regular item listing the most recent appeals received, there should be an item once a year which provides year on year data in order that it could be established whether there are any specific appeal trends that it would be of value taking into account.

6.5 **RESOLVED:** (i) That the contents of the report be noted; and,

(ii) That an appeals item be produced for the Committee once a year which provides year on year data.

7. DISCUSSION PAPER - LICENSING NEWS AND COST EFFECTIVE RESIDENT/BUSINESS COMMUNICATIONS

- 7.1 The Committee received a discussion paper on the Licensing Service's review of how it communicates with the public and licensees relating to licensing applications and information. The Chairman referred to the fact that there had been information technology issues in the last few months which had prevented the Licensing Team producing Licensing News in its previous format. This had occurred at a similar time to when the future of Licensing News had been consulted on. These two matters were entirely unconnected. However, it had brought a number of very important matters to the forefront. Councillor Karen Scarborough had been concerned about the future of Licensing News. The Chairman had asked her to work with officers on producing a plan as to how the Council should communicate with residents, in particular about licensing applications, in the future. From the consultation process and from discussions with Councillor Scarborough, it was clear that there was a need for a Licensing News document to be published. However, the Chairman added that it was not clear whether Licensing News in its current format is fit for purpose. She was keen to seek the views of Members of the Committee on the points set out in the discussion paper.
- 7.2 Mr Simpkin advised that the review was a major piece of work, assessing functions which the Licensing Service carry out which are not statutory requirements. As part of this work, officers in the Licensing Team had asked themselves four questions, 'why do we provide the communication?', 'who is the intended audience?', 'does the content meet the needs of that audience?' and 'does it provide a cost effective means of communicating the information?' He brought to Members' attention that the likes of the consultation letters, Licensing News and lamppost notices had been introduced prior to the Licensing Act 2003 and officers had not previously reviewed in detail whether these non-statutory processes were still fit for purpose.
- 7.3 The Chairman recommended that in addition to Members of the Committee commenting on the questions and points in the discussion paper at the current meeting, they would have the option to contact officers in the Licensing Team with any views they had post meeting. Comments made by Members during the meeting included the following:
- Councillor Hyams expressed the view that officers should not rely on social media only to consult residents and businesses. All age groups needed to be catered for. Councillor Hyams and Councillor Burbridge shared the view that information should be made available in The Westminster Reporter and in libraries. Councillor Hyams queried whether the consultation letters for applications were effective. She supported the retention of lamp post notices.
 - Councillor Mitchell stated that there were a lot of tools and information on the website should residents' groups or businesses wish to access them. He questioned whether the information needed to be emailed in all cases. He was of the view that people often only found out about applications via lamp post notices and that this was still a necessary form of consultation.

Councillor Mitchell shared Councillor Hyams' view that letters 'to the occupier' were an anonymous way of trying to contact people within the vicinity of premises which had submitted licensing applications and was perhaps not the most effective method of doing so. It perhaps also depended on the ward where the letters were being sent as St James's Ward had a lot of applications and it was easy for the application/letters to be missed. Mr Simpkin advised that a large number of the consultation letters were returned.

- Councillor Acton made the point that although she was aware of the various ways in which the Licensing Service consulted residents and businesses she had only become aware of an application near to where she lived as a result of receiving a consultation letter. She was of the view that some system should be used to notify people in close proximity to an application, whether this was via letter or e-mail. She wished to retain the lamp post notices as local residents often found out about applications via this route.
- Councillor Harvey recommended retaining all the consultation options until the customer service interface improved. She did not believe there should be a reliance on social media and felt it was important to maintain a 'contract' with residents and businesses.
- Councillor Prendergast and Councillor Gassanly commented that residents were often new to the process and were not aware of how the Licensing Sub-Committee regime operated. There was a question around how residents were informed of their rights and the rights of the other parties. Councillor Prendergast referred to the fact that Richard Brown was residents' best hope of having the position explained to them in respect of applications. She also asked whether consultation letters or the notices on lamp posts could be more eye-catching.
- The Chairman stated that once the consultation had been concluded and the way forward decided upon, it would be helpful if all ward Members sent an alert to the local amenity societies and residents' associations to highlight that if these groups would like specific information on licensing applications they should sign up. She recommended that Licensing News should include short descriptions of the applications referred to there in the same way as the weekly planning list.

7.4 Mr Simpkin wished to emphasise that there was a significant cost and time spent in producing the consultation letters and it could be argued that they were not good value. They were useful to some residents/businesses some of the time. However, a different approach could be to advise residents or businesses how to get hold of specific information. It was still necessary for applicants to put notices up in their premises and in the local paper if they were submitting a licensing application.

7.5 Annette Acik, Head of Licensing, stated that officers were reviewing Licensing News, including the type of information provided and whether the language used was suitable for people who were not familiar with licensing. She was keen to work more closely with library staff so that they were aware of what information could be passed on to relevant stakeholders.

7.6 Councillor Mitchell referred to the fact that he received an alert from the Committee & Governance Services' part of the website when a St James's Ward application was included on an agenda. There should be scope for Licensing News updates to be available via the website. There was potentially not a need for an attachment to be e-mailed. The Chairman stated that it was necessary to make the process easier and more cost effective. Members were recommended to send any additional comments post meeting to Mr Simpkin.

7.7 **RESOLVED:** That in the event that Members had any further comments on the points or questions in the discussion paper, these be forwarded to Mr Simpkin.

8 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

8.1 The Chairman informed Members that she was working together with Councillor Heather Acton in their capacities as the Cabinet Member for Public Protection and the Cabinet Member for Sustainability and Parking respectively to attempt to address the public nuisance and environmental impact of deliveries via mopeds. Applications for deliveries of food and drink had become more frequent at Sub-Committee meetings over the last year and moped deliveries had been raised as a particular issue in Marylebone and Bayswater. Councillor Acton recommended that Members of the Committee request for each application that those delivering to customers walk, cycle or drive electric vehicles to their destination and not use mopeds. It was understood that in some cases businesses were only prepared to commit to using reasonable endeavours to encourage delivery methods not involving mopeds. This was because they were making the case that the delivery of alcohol was provided by a third party company who were served by third party delivery people. However, there were instances where a firm had more direct responsibility over the delivery drivers and were content to have a condition on their licence that mopeds would not be used, such as a food supplier in Mayfair.

8.2 Councillor Gassanly raised the point that there was a culture where delivery people chose to use mopeds because it enabled them to compete against others providing a similar service and carry out more deliveries.

8.3 Mr Panto was asked for his advice on whether any measures could be taken prior to or after an application being considered from a licensing policy point of view. He made the point that any measures taken would have to tie in with the licensing objectives. He added that any deliveries that did not include alcohol but included hot food or hot drink prior to 23:00 could not be licensed in any event.

9 FUTURE LICENSING COMMITTEE MEETING DATES

9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 22 March 2017, Wednesday 5 July 2017 and Wednesday 29 November 2017. All meetings are scheduled for 10.00am.

The Meeting ended at 11.34 am

CHAIRMAN: _____

DATE _____



City of Westminster

Licensing Committee Report

Meeting:	Licensing Committee
Date:	22 March 2017
Classification:	For General Release
Title:	Westminster CAB - Licensing Project Activity Report 2016
Wards Affected:	All
Financial Summary:	None
Report of:	Director of Policy, Performance and Communications

1. Executive Summary

- 1.1 This report seeks to advise the Licensing Committee of the work of the Westminster Citizen Advice Bureau Licensing Project in 2016.

2. Recommendations

- 2.1 That the Licensing Committee note the Activity Report produced by the Westminster Citizen Advice Bureau Licensing Project, attached as Appendix 1.

3. Background

- 3.1 The Westminster Citizen Advice Bureau Licensing Project was established in 2005 in response to the implementation of the Licensing Act 2003.
- 3.2 The purpose of the project is to provide an independent and expert advice, assistance, and representation service, free of charge to all Westminster residents and local businesses, in respect of their rights and responsibilities as potential “interested parties” at council hearings relating to licensed premises under the Licensing Act 2003, the Gambling Act 2005, and Sexual Entertainment Venues.
- 3.3 The project is funded by the council and managed by Westminster CAB. It is overseen by a Licensing Project Steering Group which includes representatives from the CAB and the council and which is Chaired by a local resident and ex-restaurateur. The project employs a full time specialist licensing lawyer and appropriate managerial and administrative support.
- 3.4 An Activity Report produced by the Westminster Citizen Advice Bureau Licensing Project is attached at Appendix 1.

4. Financial and Legal Implications

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

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Chris Wroe Licensing Policy & Strategy Manager on 020 7641 5903 or email cwroe@westminster.gov.uk.

Background Papers

None.

Licensing Advice Project

**Activity Report: 1 January 2016 - 31
December 2016**



**citizens
advice**

Westminster

Executive Summary

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

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

In 2016, there were 126 new cases opened¹. We represented residents at 38 hearings, and made written submissions in advance of 2 hearings which we were unable to attend.

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

The Project undertakes a range of other activities, including responding to local and national consultations.

The Project has a range of benefits for clients, the local authority, and the licensing process in general, including helping to ensure that objectors focus on relevant issues in representations and at hearings.

The Project contributes to the wider Social Policy aims of Citizens Advice.

We look forward to continuing to provide tailored, focused, timely, specialist, practical and pragmatic advice, information, assistance and representation to residents and businesses in relation to these matters in 2017.

¹ An individual case may involve a single client or multiple clients, depending on the case.

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3. Benefits of the Project
4. Social Policy work
5. Conclusions

Appendices

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

1. Introduction and overview

The Licensing Advice Project (“the Project”) is provided by Citizens Advice Westminster and funded by Westminster City Council. This Report sets out the activity of the Project during 2016. It is intended that the Report be presented to the Licensing Committee on 22 March 2017.

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

- Licensing Act 2003²
- Gambling Act 2005 (since 2012)
- Local Government (Miscellaneous Provisions) Act 1982³ (since 2012)

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

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

The twin aims of the Citizens Advice service nationwide are:

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

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

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

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

national publications.

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

2. The Licensing Advice Project's Service

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

- The adviser - Richard Brown. Richard is a qualified solicitor specialising in licensing law, particularly in Westminster.
- Project administration and line management

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

The philosophy of enabling increased involvement by local people is common to all three licensing regimes.

Licensing Act 2003 empowered local authorities with licensing functions previously exercised by licensing justices in order to increase the accessibility of the process to residents, who 'may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.'

Gambling Act 2005 has much overlap with Licensing Act 2003 in terms of residents' rights and responsibilities.

The amendments to Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 to include 'sexual entertainment venues' were a direct result of lobbying by certain groups with the express purpose of giving local communities more of a say in such applications.

The work of the Project was referred to as a 'best practice' example of good engagement facilitated by a local authority in '*Licensing Act 2003: its uses and abuses*' published in 2016 by the Institute of Alcohol Studies, and was part of the final recommendations made in the study.

2.1 Casework

The Project has provided information, assistance, advice and representation on the following types of application in 2016:

- new premises licence under s17 Licensing Act 2003
- variation of premises licence under s34 Licensing Act 2003
- review of premises licence under s51 Licensing Act 2003
- variation of club premises certificate under s84 Licensing Act 2003
- 'minor variation' of premises licence under s41A Licensing Act 2003
- review of premises licence under s197 Gambling Act 2005
- application for renewal of SEV licence under Schedule 3 para 8 Local Government (Miscellaneous Provisions) Act 1982
- application for new SEV licence under Schedule 3 para 8 Local Government (Miscellaneous Provisions) Act 1982
- application to vary SEV licence Schedule 3 para 18 Local Government (Miscellaneous Provisions) Act 1982
- noise/anti-social behaviour and other public nuisance issues
- information/advice on miscellaneous licensing issues – e.g. local and national consultations.

Level of work

No two cases are the same, and so it is difficult to generalise about casework. For advice on applications for licences, some clients simply request information on an application or issue and do not require further assistance. More usually, clients require more detailed advice on an application and how best to frame their objections. We would then offer to draft or assist with drafting their representations. Where clients request representation at hearings, we usually offer a face to face meeting to go through the procedure and explain what to expect. We suggest pragmatic approaches to applications, and to proposals by applicants' representatives. We do a site visit before each hearing. Following hearings, we report the outcome and any conditions which were imposed, and advise on next steps.

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

Casework therefore tends to comprise three broad stages:

- **Information only,**
- **The above, plus ongoing advice and assistance,**
- **The above, plus representation at Sub-Committee hearing(s) and any necessary follow-up**

In 2016, the Project represented residents (ranging from a single individual to multiple residents, amenity societies and residents' associations) at 38 licensing hearings.

The Project was also asked to represent residents at a number of hearings which were either not necessary following withdrawal of representations after negotiations

and agreement, or where the application was withdrawn, or where we were not able to attend the hearing but instead submitted written representations in advance of the hearing.

Key features of casework

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

There are two case studies at Appendix A which give examples of the work done by the Project.

2.2 Other Project activities

- We have submitted an article for each edition of the Institute of Licensing's 'Journal of Licensing' since its inception. The articles have a focus on licensing issues affecting residents.
- We have developed and maintained a dedicated website, www.licensingadvice.org. The website has general information and advice on all three licensing regimes, and handy step-by-step guides to each are available to download.
- We maintain close links with amenity societies and residents' associations.
- We attend the Westminster Entertainment Forum.
- We submit articles for residents' magazines/newsletters.

- We respond to Westminster City Council and Government consultations
- We encourage and facilitate involvement by residents in consultations
- In 2016, we provided a written response to the House Of Lords Select Committee on Licensing, and gave oral evidence to the Select Committee.

3. Benefits of the Project

Benefits for clients

- Access to specialist legal representation in a niche area of law in relation to matters which can have a profound effect on their lives.
- The Project is a “one-stop” resource of information as well as advice and representation.
- Representation in terms of direct feedback and policy reporting to the local authority on issues affecting or likely residents.
- Representation in terms of responses to local and national consultations affecting or likely to affect residents
- We can advise and represent more than one resident through the process and/or at a hearing.
- Residents are empowered to participate in the licensing regimes.
- Residents who do not have the time, do not wish, or do not need to contact the Project directly can access the website at their convenience.
- The Project can ‘level the playing field’ at hearings by providing representation at hearings to objectors.
- The Project can speak for residents who may feel intimidated or nervous at speaking, especially where the applicant is represented by an experienced solicitor, barrister or QC.
- The Project can explain what technical aspects such as different conditions mean in practice.
- The advice provided is tailored to licensing in Westminster.
- The Project provides residents with representation when residents are unable to attend hearings because of e.g. work or holiday.
- Disabled clients who are unable to attend a hearing can have appropriate

representation.

- Where clients attend hearings, we endeavor to encourage full participation in the process and help them to address the Sub-Committee themselves to give their individual perspective.

Benefits for the local authority

- The Project can coordinate a number of representations and concerns, especially regarding last minute changes to an application or additional conditions being proposed. This can lead to more efficient hearings.
- Saving of officer time.
- The service is independent of Westminster City Council as it is provided by Citizens Advice Westminster.
- It is the only service of its kind in the country where resident objectors have access to free specialist advice and representation.
- Due to the length of time the Project has been in existence, the advice provided is tailored to specific licensing issues in different parts of Westminster.
- Clients have expressed gratitude to the City Council for providing the service.
- The service can help facilitate agencies working to a common goal e.g. when residents support responsible authority-led reviews.
- Residents can take their own action without responsible authorities having to do so e.g. licence reviews.
- Residents' views can still be heard when they are unavailable to attend a hearing, rather than requests for adjournments being made.
- Allows residents to play full role at a hearing e.g. be party to discussions beforehand/during, and receive pragmatic advice on developments.
- Reputational benefit in providing a service which no other local authority provides.
- Councillors are able to refer residents to the Project.
- Council officers are able to refer residents to the Project.

Benefits for the process as a whole

- Concerns are focused on relevant matters.
- Applicants can have one point of contact for multiple resident objectors
- Objectors sometimes withdraw or do not make representations having taken advice, thus saving time and expense for all.
- Conditions can be agreed or proposed prior to a hearing.
- Late changes to applications can be explained to residents independently.
- ‘Live’ issues can be narrowed down or at least clarified prior to a hearing.

4. Social Policy (“Campaigns and Research”)

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

Social policy work in the context of the Licensing Advice Project can include: cases where the impact of the advice given is wider than the individual to whom the advice is given, or cases which sets a precedent which has a wider impact than the individual case itself. For example, we have assisted residents’ associations/amenity societies, or individual residents who are themselves acting on behalf of other residents, or a resident shares the advice with other residents.

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

5. Conclusions

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

each of the licensing regimes, entrusted to local authorities.

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

We look forward to continuing to meet the needs of the community by providing tailored, focused, timely, specialist, practical and pragmatic advice, information, assistance and representation in 2017.

APPENDIX A: Case study

Representations on licence applications

Location: Maida Vale

Client type: individuals

Application type: application to vary club premises certificate

Introduction and background

The premises is a popular sports club which had for many years benefitted from a club premises certificate (CPC). We were contacted by a resident who lived opposite the premises.

A CPC is a different type of permission under Licensing Act 2003. It is far less common than a 'premises licence'. A CPC authorises the provision of 'qualifying club activities' rather than 'licensable activities'.

A resident contacted us to ask for advice on the application and to ask for assistance in opposing it.

The application

The actual activities which can be permitted by a CPC are largely the same as those which can be permitted by a premises licence. However under a CPC, the activities can only be provided to members of the club and their guests, rather than to the general public. It is therefore more restrictive than a premises licence and hence benefits from some relaxation in regulation.

The applicant applied to vary their CPC to extend the licensed area to include an outside terrace/garden. Although they already had permission to supply alcohol for consumption off the premises, every CPC is subject to mandatory conditions which stipulate that off sales can only be supplied in sealed containers to members.

In fact, the client reported that the outside area was regularly used for consumption of alcohol by members, guests and what appeared to be members of the public attending various corporate events. This gave rise to a considerable degree of nuisance, particularly in the summer and in the later evening.

The premises was surrounded on all sides by residential blocks, and there was a great degree of concern at the application, given the nuisance which residents already experienced from the use of the outside area which the applicant was effectively seeking to regularise.

However, a number of the local residents were also members of the club.

We met some residents at their homes, were shown around the site, and gave detailed and lengthy advice on the content of the application and the somewhat

complex legal situation pertaining to the use of the outside area under a CPC.

We advised on the practical requirements of opposing the application, including ensuring that the licensing authority was aware of the specific local factors which made this a sensitive location, and setting out the nuisance already experienced.

The initial client and two of his neighbours, one of whom was a member of the club, were in effect coordinating the residents' opposition. Advice was given to all three. We assisted with drafting more substantial representations than had initially submitted, and advised on gathering ongoing evidence of the noise nuisance.

Casework leading up to hearing

We were contacted by the applicant's solicitor and liaised with him regarding amendments to the application and possible measures which may alleviate concerns.

We advised the residents of the proposed changes and what they meant in practice.

We agreed to represent the clients at the Sub-Committee hearing, and we coordinated the submission of further evidence, including from a resident who had not made a representation because she did not wish to be identified. We drafted a written submission to the Sub-Committee but it was impossible to establish a consensus among the residents.

It became clear that the clients were not *ad idem* on the issues, and one had significantly different views on what was acceptable should the application be granted. We had an appointment with him at our offices, and he agreed that a conflict of interest had arisen. The client agreed to represent himself at the hearing.

The hearing

We discussed the content of the Report to Sub-Committee with the remaining clients, and spoke at some length prior to the hearing with one of them and with a Councillor who was supporting them.

We explained the hearing process, and what to expect. We encouraged them to address the Sub-Committee briefly if they wished, to give their own personal perspective but being careful not to repeat things which had already been said.

The application was granted in part, but to a reduced terminal hour both inside and outside.

One client commented as follows: *'Many thanks for your help throughout. I don't think we could have presented our case better than we did.'*

Premises: Restaurant/takeaway

Location: St James' Ward

Client type: individual

Application type: application for new premises licence

Introduction and background

A well-known Japanese restaurant chain applied through their solicitors for a licence to sell alcohol at a new premises in a new development of mixed use. There was a residential block at the back of the premises, separated from the premises by a courtyard. The courtyard was surrounded on all sides by tall buildings, and therefore would amplify any noise resulting from any activities in the courtyard.

The client was referred to the Project by a Council officer at Westminster City Council. The client had been unsure as to how to respond to the application, and to whom she should address her concerns.

The client had therefore taken something of a scattergun approach, and had sent correspondence about the application to a number of different departments, before being referred to the Project.

The application

The client had submitted all correspondence by post, as she was not available over email and did not have access to the internet. She also did not have a mobile phone. We were contacted by the client on her landline, and gave some initial advice. The client explained her concerns, and expressed frustration that she had not received responses to her correspondence to the Council. She had submitted an objection.

Her concerns related largely to use by customers of the outside area at the back of the premises, which her property overlooked. Customers drinking there would cause a severe nuisance as noise would echo around the courtyard. She was also concerned about noisy deliveries and collections of rubbish. She said that the plans accompanying the application showed an area at the back and access to it.

We said that we would provide more complete advice when we had looked in detail at the application. The client requested a face-to-face appointment at 21a Conduit Place, so that she could show us relevant documentation and also some photos. Upon looking at the documentation, it seemed clear to us that the client had misunderstood the application and plans, and that the applicant did not intend to use the area at the back of their premises. In fact, it was not in their demise in any event.

The client attended her appointment, and we explained the situation to her. We were aware that a hearing date had been set. We suggested that the best way to resolve her concerns would be for her to meet with the applicant on site, see the layout of the premises, and have the applicant explain the operation of the premises to her. She thought this was a good idea, but wanted us to attend the meeting with her. The client also provided us with copies of her correspondence, photos, and relevant documentation.

Discussions between applicant and objector

We corresponded with the applicant's solicitor, explained the client's concerns, and arranged a mutually convenient date to meet on site. We kept the client updated by writing to her and enclosing the copy correspondence.

In the meantime, the client had requested a further face-to-face appointment to deliver further documentation and seek further advice about the hearing, if one was necessary.

We met on site at the premises, and the client was shown around. It was demonstrated that the applicant premises had no access to the rear of the premises and so there was no way that they could use it for any purpose at all. The client was very pleased that her concerns were alleviated, and indicated that if appropriate conditions were attached, her representation could be withdrawn.

Following the meeting, we suggested to the client wording for conditions she may wish to propose to be attached to the licence formalising what had been agreed at the meeting.

We drafted conditions, and liaised with the client by telephone and post. The client was happy with the conditions, and the applicant's solicitor agreed to them. We advised the client of how she could formalise this with the Council, as she was not available over email. We had kept the case officer updated with information on the ongoing discussions, and advised the client to write to him confirming that if the conditions were attached she would withdraw her objection.

The client hand delivered her letter to the officer. The officer confirmed to us that the letter had been received and that the licence had been granted, as the client's objection was the sole remaining objection. As such, a hearing did not need to take place, saving time and expense for all parties.

We also spoke to the Council officer who had referred the client, and who wanted to reassure the client that her letters had been received and would have been included in the hearing papers. We passed this on to the client, who was happy with the reassurance.

Conclusion

Following advice and action from the Project, the objector proactively sought to liaise with the applicant to clarify the application. In this way, the Project was able to assist in resolving the objector's concerns in a timely manner by liaising with the applicant and their solicitors on her behalf. We were also able to provide information and assistance to a resident who felt that she was not being listened to and could not access services online.

Further case studies can be provided on request.

Appendix B: Client comments/feedback

'We are happy with the decision and think the hours granted are a perfectly reasonable outcome. I was slightly apprehensive to attend yesterday, but I did find it both interesting and reassuring to see the council at work.' - **Marylebone resident.**

'It's hugely important that we were able to give voice to, and put on record the many concerns we have about the operation. And the no-smoking by staff at the rear is a major achievement as is the limit to 5 customer smokers at the front.' - **Soho resident.**

'I think it will make a big difference and will give us the improvements we are seeking.' - **Marylebone resident.**

'What a great result this morning. Thank you so much for dealing with all the detailed correspondence, for guiding us through the process and for presenting our case to the Licensing Sub-Committee. It was a magnificent result, we could not have done it without you.' - **Vincent Square resident.**

'Thank you for all you have done. [The Project] provide[s] an outstanding service to residents and thank you [] for introducing us' - **St James's resident.**

'I am very grateful for [the] excellent service you provide Westminster residents - I hope you feel good about the work you do - it really does directly impact, and in our case, very positively, on lives.' - **Regent's Park resident.**

'I'm writing to you to pass on how fantastic [the Project] has been in helping my husband and I to make an application (sic) regarding a licence change in the Marylebone area.

Because of [the] professional and very prompt and thorough help, I have been able to express my concerns appropriately about a topic I am not an expert in. I was able to brief fellow neighbours pre Christmas to encourage them to make submissions (which some of them did), and then I've been able to keep them abreast of developments. And most importantly, we have been successful in making changes to the licence application.– **Bryanston and Dorset Square resident.**

'Thank you for everything. Without [the Project] I could not have contemplated embarking on a review.' - **Soho resident.**

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City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>Wednesday 22nd March 2017</i>
Classification:	<i>For General Release</i>
Title:	<i>Developing a vision for the evening and night time economy in Westminster</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>N/A</i>
Report of:	<i>Director of Policy, Performance and Communications</i>

1. Executive Summary

- 1.1. City for All 2017/18 contains a commitment to 'set out a clear vision and plan for our night time economy, to promote the interests of residents, businesses and visitors'.
- 1.2. In order to deliver this commitment, the Council intends to develop a publishable document that sets out Westminster's vision for the Evening and Night Time Economy in the city and a framework for delivery against that vision, including links to a range of existing policy and operational tools.
- 1.3. As part of early discussions, Members have given a steer that the process for developing the vision and plan should be as open and engaging as possible. This will include engagement with Members, residents groups, industry and other key stakeholders such as the Metropolitan Police.
- 1.4. The evening and night time economy is not exclusively a licensing matter and as much consideration will be given to how non-licensable activity can be supported as to how this impacts on licensed premises. Nevertheless, the crossovers with licensing are clearly substantial and the Licensing Committee are therefore being engaged early to help shape the process and thinking.

2. Recommendations

- 2.1. The Committee is asked to provide views on key issues in the evening and night time economy

2.2. The Committee is asked to note that further engagement will take place with Members and stakeholders and provide views on how best to secure a rounded debate on a complex and potentially contentious subject.

3. Context

3.1. The Council does not currently have a clearly articulated vision and plan for the evening and night time economy as a whole. This has been identified as a gap and the Council has committed to addressing this as part of City for All: 2017/18.

3.2. The development of such a vision will allow the Council to proactively address many of the challenges that are currently the subject of national debate and also express what being a 24 hour city means in a sovereign Westminster context. This is open for discussion but does not necessarily mean later opening hours for licensed premises and could instead articulate how the city is already 24 hours due to the continual cycle of street cleansing, transportation and other features that have existed for many years.

3.3. A strategic plan would also have to take account of a number of external factors.

The national and international narrative around trends in the night time economy

3.4. There are regularly national and international reports on the trends in licensed premises. The conclusion of most recent studies appears to be that 'traditional' forms of nightlife and entertainment are in decline, but there are new, exciting offers emerging which pose challenges for both the industry and those that regulate it. Most notably this has involved merging together of different types of offer such as music with food and drink or alcohol with retail.

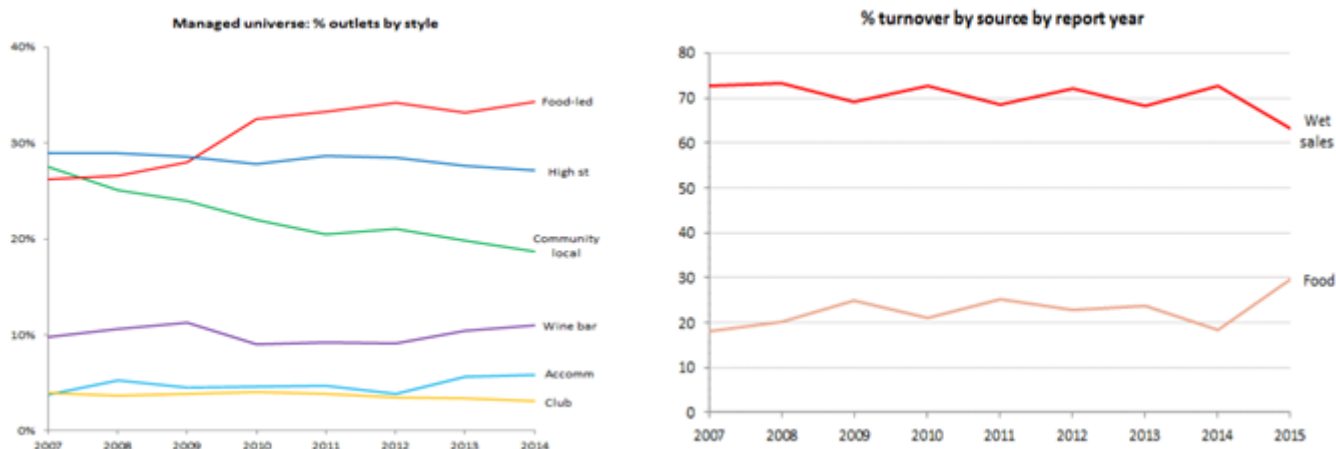
3.5. In March 2016 there were 210,000 premises licences in England and Wales, an increase of 3% (up 5,500) compared with March 2014 (Home Office statistics).

3.6. In January 2017, the Local Data Company released figures that show a growth in cafes and fast food (up 9% between 2011 and 2016) at the expense of traditional bars, pubs and night clubs (down 9%).

3.7. The British Beer and Pub Association have reported that the UK consumed an average of 9.4 litres of alcohol per adult (15+) in 2014, down 19% from the 2004 peak and 10% lower than 2000.

3.8. In 2016, the Office for National Statistics (ONS) updated the basket of goods and services that are used to calculate inflation to remove nightclub entry fees. This was based on the fact that fewer nightclubs charge entry fees but also 'as a reflection of the nation's changing tastes'.

3.9. The Association of Licensed Multiple Retailers (ALMR) reported that food-led activity was growing at the expense of alcohol-sales (see below tables).



3.10. This national trend is reflected in Westminster as we have seen an upward trend in the number of license applications received for restaurants and cafes (from 178 in 2012 to 304 in 2016). The number of applications received for pubs, bars and night clubs has been somewhat more variable with 85 in 2012, a peak of 167 in 2014 and decline to 99 in 2016 (Westminster Licensing statistics)

The Mayor of London's ambitions and position

- 3.11. The Mayor of London is openly supportive of the Night Time Economy and has appointed Amy Lamé as 'Night Czar' and Philip Kolvin QC and Chairman of the Night Time Commission.
- 3.12. The Mayor's ambition is to 'make London a 24-hour city that's open to all', and early discussion indicate that this involves opportunities to spread the concentration of night time activity beyond traditional areas such as the West End and diversify away from alcohol-led activity.
- 3.13. On this basis, the Mayor is committed to developing a vision and strategy for the night time economy across London. Westminster is only one borough within London but our night time economy remains by far and away the biggest in the country and it is therefore crucial that our local perspective influences and aligns with the Mayor's ambitions where possible in the long-term.

4. Westminster's current position and need for engagement

4.1. In 2015, Westminster published two studies of the Evening and Night Time Economy, one provided a cost-benefit analysis and the other provided a behavioural study in 10 locations across the city¹. As part of this, it was recommended that the Council should adopt a stronger approach to strategic leadership on the evening and night time economy.

¹ <https://www.westminster.gov.uk/evening-and-night-time-economy>

- 4.2. At present, the closest we come to a plan or a strategy is the history and policies set out in the Statement of Licensing Policy. This sets out a balanced approach which promotes growth whilst protecting residential and other interests which compete for use of the city. It also emphasises the importance of partnership working with the Police, the industry and residents.
- 4.3. The most notable strategic position we adopt, is to encourage change in the composition of Westminster's evening and night-time economy so that it becomes more widely based and less dominated by alcohol led premises. We attempt to do this by encouraging premises to include more seating and allow for order food by table service, rather than open bar space which caters for high volume vertical drinking. This is consistent with national policy as set out by the Home Office.
- 4.4. Our approach is also market-led and we do not seek to use licensing to protect certain types of premises from failure as a result of changing consumer demands. This is particularly important in any debate about why there are declining numbers of nightclubs.
- 4.5. The development of a wider strategic plan will build on the principles outlined in the Statement of Licensing Policy and provide the Council with a clear statement of what Westminster City Council wants from the night time economy and how we might work to facilitate and deliver this.
- 4.6. Such a plan will inevitably cover more areas of policy and operation than licensing. We have a number of key 'levers' at our disposal in the implementation of a wider night time economy plan including, but not limited to:
- Statement of Licensing Policy and the licensing decision making process
 - City Plan and the planning decision making process
 - Compliance and enforcement activity
 - Licensing Charter pilot in HOLBA area
 - Communications campaigns
 - City promotions and events
 - Economic development
 - Place-shaping and physical design of public space
 - Waste collection and street cleansing
- 4.7. This will therefore require a significant amount of cross-Council collaboration and consensus building amongst stakeholders. The Licensing Committee and indeed all Members have a critical role to play in shaping this agenda.
- 4.8. Efforts will also be made to engage residents through the Council's Open Forum platform and undertake direct engagement with the industry and other stakeholders through the Westminster Entertainment Forum (WEF) and in direct dialogue where appropriate.
- 4.9. An initial look across the Council's key policy and operational approaches to the evening and night time economy, suggests the following key principles as a basis for discussion:

- We protect established residential communities from negative impacts
- We work with market trends rather than against them and promote diversification away from alcohol-led activity
- A safe night time economy is an attractive and profitable night time economy
- We balance the competing demands of residents and businesses
- We work in partnership (with the police, industry and others) to achieve our aims
- Any changes or growth in the night time economy in the night time economy have to be supported with infrastructure or service improvements to mitigate impact on residents, this includes funding.

4.10. These are consistent with the priorities of City for All: 2017/18 to show civic leadership and responsibility, promote opportunity and fairness and set the standards for a world class Westminster:

5. Financial Implications

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

6. Legal Implications

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

7. Staffing Implications

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

8. Reason for Decision

8.1. The proposals and issues set out in this report contribute to the delivery of a key City For All commitment.

9. If you have any queries about this report or wish to inspect one of the background papers please contact Richard Cressey, Principal Police Officer on 020 7641 3403 or via email rcressey@westminster.gov.uk.

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Licensing Committee Report

Meeting:	Licensing Committee
Date:	22 March 2017
Classification:	For General Release
Title:	Licensing Communications Strategy
Wards Affected:	All
Financial Summary:	None
Report of:	Director of Policy, Performance and Communications

1. Executive Summary

- 1.1 This communications strategy at Appendix I seeks to advise the Licensing Committee of the opportunities going forward to promote Westminster City Council's licensing policy output as well as the work of the Licensing Committee, in addition to setting out ways to bolster the existing communications offer.

2. Recommendations

- 2.1 That the Licensing Committee notes the objectives and the identified opportunities for communications activity.

3. Background

- 3.1 Cllr Antonia Cox, Cabinet Member for Public Protection & Licensing, and Cllr Angela Harvey, Chair of the Licensing Committee, requested a review of licensing communications.
- 3.2 The purpose of the plan is to set clear objectives, identify challenges, provide examples of communications support, and look ahead to key events in 2017.
- 3.3 The plan includes a table of the main events that are relevant to the work of the Licensing Committee, from relevant parliamentary activity to Westminster City Council policy output.

4. Financial and Legal Implications

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

If you have any queries about this report or wish to inspect any of the Background Papers please contact Ben Maloney in the communications team on 020 7641 2861 or email bmaloney@westminster.gov.uk.

Background Papers

None.



City of Westminster

Licensing Committee communications strategy

Context

CLlr Antonia Cox, Cabinet Member for Public Protection & Licensing, and CLlr Angela Harvey, Chair of the Licensing Committee, have asked for a review of licensing communications. This strategy is therefore a horizon-scanning exercise which aims to set out what approach the Licensing team should take in communicating its activity in the year ahead. In addition, it will establish opportunities to leverage the work of the Council to promote the key messaging and priorities set out in the City for All: Year 3.

Objectives

Going forward, the overall objective of this strategy is to promote the work of Westminster City Council. The key objectives should therefore be as follows:

- Position Westminster as a leader and the home of exceptional practice;
- Communicate core messaging and council/ committee activity;
- Engage with business, and residential community; and
- Promote the “bigger picture” to the media.

Opportunities

The most significant area where we can bolster our communications offer is in the circulation of pro-active press releases which promote the ambitious council plans and associated licensing decisions. This is important both in terms of keeping businesses and residents alike informed of the Council’s work, but is also vital in ensuring that WCC’s voice is heard. There will be further scope to do this following the launch of the Licensing Charter.

A proactive approach will also help to build relationships with key journalists and influencers, for example those that have a relevant brief such as business or economy, as well as those that have written about or expressed an interest in the night-time economy.

Key areas of opportunity:

- Pro-active approach in distributing information about committee decisions; and
- Build relationships with key journalists.

Challenges

Main areas to consider:

- Ensure media output is proactive; and
- Issue swift statements to correct inaccurate reporting



City of Westminster

Tactics

There are a number of options going forward to promote licensing activity. Each can be tailored accordingly, depending on how we might wish to approach a particular issue.

Profile pieces

Engage with key London/ national journalists that either hold a relevant brief e.g. business, or have previously written extensively on the subject. This would take the form of a 1-2-1 interview with the Cabinet Member or Committee Chair, enabling them to talk extensively about the work of the Council.

Outlets to target: Evening Standard, BBC London, ITV London, BBC Radio London, LBC, West End Extra.

In-depth focus

This will enable the licensing team to demonstrate first-hand the important work that it carries out within Westminster. It will also enable us to offer a unique hook to high-profile target journalists. This could take the form of a late-night tour with the City Inspectors.

Outlets to target: Evening Standard, BBC London, ITV London.

Op-eds

Opinion pieces targeted at the relevant trade media. This would enable the Committee Chair to go into greater detail about the work of the committee and communicate the council's position to licensees.

Outlets to target: Restaurant magazine, Total Licensing Magazine, Bar Business Magazine, Bar Magazine, Pub & Bar Magazine, The Caterer, The Caterer, Licensee & Hotelier, Nightclub & Bar, ALMR (The Association of Licensed Multiple Retailers).

Blogs

A regular series of blogs, either highlighting forthcoming committee activity or providing post-committee information. This would help to promote key areas and present a hook to daily news journalists.

Key outlets to target: The Huffington Post, ALMR.

Social media

Tweet key news/ lines via the council's main @CityWestminster twitter account of relevant committee activity. Post press releases after committee decisions to the council website.



City of Westminster

Key issues

Night-time economy

As mentioned above, the night-time economy has received a considerable degree of national and London-wide media attention in recent months. This is for a combination of reasons: The Mayor of London Sadiq Khan’s review of the night-time economy; his appointments of Amy Lame as the first Night Czar and Philip Kolvin as Chair of the Night Time Commission; and the fallout surrounding Islington Council’s closure (and later reversal) of Fabric nightclub.

Lines to take/ key messages:

- We want to promote sustainable growth whilst protecting residential and other interests which compete for use of the city.
- We want to encourage greater partnership between ourselves, the Police, the industry and residents.
- We want to encourage a change in the composition of Westminster’s night-time economy so that it becomes more diverse and less dominated by alcohol-led premises. We will do this by encouraging premises to include more seating and allow for order food by table service, rather than open bar space which caters for high volume vertical drinking. This is consistent with national policy as set out by the Home Office.
- Our approach is market-led and we do not seek to use licensing to protect certain types of premises from failure as a result of changing consumer demands.

Short-term lets

In an addition to the night-time economy, there is an opportunity to provide on-going communications support about more long-term campaigns, particularly around controversial subjects or areas where the council is taking a leading role. The main opportunities are set out in the calendar below, but in the immediacy one of the current areas of work is around short-terms lets.

The short-term lets industry is one of the Leader’s key City for All priorities going forward and Westminster City Council is currently taking a leading role in working with the Government and Mayor of London to bring about increased collaboration of short-term lets providers and greater enforcement of the 90-night limit.

Calendar

Below is a list of the key event that the licensing team need to be aware of in 2017.

Event	Date
Licensing Act 2003 – House of Lords inquiry	April
State Opening of Parliament	Spring
New ‘City for All Day’	June
Westminster Forum: The future for London's night-time economy	27 th June
Political party conferences	September/ October
Short-term lets campaign	On-going



City of Westminster

Air Quality Strategy	TBC
Open Spaces & Biodiversity Strategy	TBC
Gig & Sharing Economy Charter	TBC
Gambling policy	TBC
New Sustainability Manifesto	TBC
Special inspection report of London Zoo	TBC
Possible Government inquiry into zoo conditions	TBC
New 'Report It' campaign	TBC
'My Westminster' campaign	TBC

Evaluation

In line with our measurable objectives we will produce regular dashboards tracking media output, coverage, enquiries and social media mentions.

On each policy area or major committee decision, we will aim to have at least one mention in national, London and trade press.



City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>22nd March 2017</i>
Classification:	<i>For General Release</i>
Title:	<i>Use of gambling research in future policy development and targeted support</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>There are no financial impacts associated with this report.</i>
Report of:	<i>Director of Public Protection and Licensing</i>

1 Executive Summary

- 1.1 This briefing note outlines the current research and thinking around vulnerability and the risk of harm from gambling associated with these groups in certain areas across the City.
- 1.2 It also outlines research on the impact of high concentrations of gaming venues in certain areas and high densities of Fixed Odds Betting terminals (FOBTs)
- 1.3 The Cabinet Member for Public Protection and Licensing has agreed the development of the gambling policy in line with the proposals within section 4 and the directed support and partnership approach to area based vulnerability as set out in section 5.

2. Recommendations

- 2.1 The Committee is asked to provide views on work to date and suggested approach.
- 2.2 The Committee is asked to note the indicative timescales set out in this report.

3. Background

- 3.1 The Council is responsible for licensing local gambling within its area. The main gambling activities are provided within gambling premises which must be licensed by the Licensing Authority. The licensing of gambling premises is regulated within the Gambling Act 2005 (the Act). The Act has three licensing objectives:
 - 1. to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - 2. to ensure gambling is conducted in a fair and open way
 - 3. to protect children and other vulnerable persons from being harmed or exploited by gambling
- 3.2 Westminster is the leading local authority on gambling licensing within the United Kingdom. It has the highest concentration of gambling premises within the United Kingdom (122 licensed premises), the largest number of casinos within a local area (22 out of a total of 167 across England and Wales) and we are the first local authority in the country to refuse two betting shop applications and review another for local area based risk. The Council's Licensing Service has been proactive in working in with the Gambling Commission which is the National Regulator, alongside gambling operators and gambling care providers. Westminster's approach to licensing of premises used for gambling is considered to be the most robust in the United Kingdom.
- 3.3 The Licensing Service, as part of its wider work on assessing applications for gambling premises, sought to identify those vulnerable groups with an increased risk of experiencing harm as a result of gambling. It also sought to identify their locations within Westminster. In 2015, the council partnered with Manchester City Council to commission Geofutures: Gambling and Places Research Hub to undertake this research to explore area-based vulnerability to gambling-related harm.
- 3.4 The output from this research was the publication of two reports. The first report set out the evidence base in terms of those groups at risk of gambling related harm and was titled ['Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review'](#). This report was published in July 2015. This report also defined gambling related harm and supporting evidence. . Gambling related harm can be defined as:

"Harm or distress of any kind caused or exacerbated by a person's gambling, and includes personal, social or economic harm suffered by the person, their spouse, partner, family and wider community, or in their workplace or society at large."

- 3.5 The second report used the groups identified within the first report and mapped them across Westminster and Manchester, based on a newly developed risk matrix. This report was titled '[Exploring area-based vulnerability to gambling-related harm: Developing the gambling related harm risk index](#)'. This report was published in February 2016. The Risk Matrix for Westminster is attached as Appendix one.
- 3.6 The report established that there were five key hotspot areas within the City where a higher proportion of people were located who may be at risk of gambling related harm. These areas are:
1. North West (Harrow Road)
 2. Paddington and Edgware Road (North)
 3. West End (North)
 4. West End (South)
 5. Victoria and Pimlico
- 3.7 Each area has distinct vulnerability traits which require various approaches based on where gambling premises are located within the City. Even though the risk matrix has identified these hotspots within the City this does not mean that there are no risks of gambling related harm outside of these hotspot areas. The matrix indicates that within those hotspots there are high concentrations of risk factors which heighten the risk of harm.

4. Gambling Local Risk Assessments

- 4.1 In April 2016 a new Operating Licensing Condition of the Gambling Commissions Licence Conditions and Codes of Practice (LCCP) came into effect. This condition required all premises based gambling operators to undertake a local gambling risk assessment of their premises and the potential impact that the premises and its operation may have on the licensing objectives. The condition made it a requirement for the gambling operator to consider local area information provided by the Licensing Authority via their Statement of Licensing Principles for Gambling (Licensing Policy).
- 4.2 The Gambling Commission did not produce a standard template for these risk assessments. It was therefore decided that Westminster's Licensing Service would develop guidance and a risk assessment process, in partnership with Coral Racing Limited. Westminster led the way in this approach, and a large number of local authorities adopted this guidance. Gambling operators also adopted the risk assessment template and process from this document.
- 4.3 The Licensing Service has been working with gambling operators within Westminster, emphasising the significance of findings from the Geofuture reports. We have seen some very good risk assessments that have considered the local issues identified within the research findings and risk matrix. However, there has also been some resistance from a national betting operator who has produced a standard risk assessment document for all of their premises and has not properly considered the local risks. The

Licensing Service is in discussions with the Gambling Commission about the next steps associated with this operator.

5. Gambling Policy Development

- 5.1 The Council's Gambling Licensing Policy has to be reviewed every three years. This was undertaken in 2015. It was decided at the time, in collaboration with Councillor Aiken that we would undertake a minor amendment to the policy, but undertake a full review once the research was completed and views on the policy approach to it was devised. Throughout 2016 the Licensing Service has been looking at the policy approach for gambling.
- 5.2 The service believes that a fundamental review of the current policy is necessary. The original policy was developed from a template produced at the time by LACORS. The current policy is very generic and is still within the format established in 2006 when the Act came in.
- 5.3 The Licensing Service has commenced scoping a new policy document for gambling. The policy will be based around the new risk based approach that has been introduced by the Gambling Commission. The new policy will be made up of a number of parts which are based on three specific themes. These themes are geographical and local information (local area profiles), policies relating to gambling premises and permit and other authorisation approach.

Local Area Profiles

- 5.4 The Local Area Profiles (LAP) will be a new concept within the policy document. The LAP will contain local information relating to Westminster. It will include the research findings and the risk matrix as well as key information on crime, care provisions, school and special education facilities and sensitive premises (homeless hostels, alcohol and drug addiction centres, gambler anonymous meeting locations, etc). The aim of the LAP is to set out the information that gambling operators need to consider for new applications or when updating their risk assessments for existing premises.

Special Consideration Zones

- 5.5 The LAP will establish five zones, which have provisionally been called Special Consideration Zones. The zones are the locations of the hot spots identified within the Geofutures risk matrix. These zones will have special policy significance as if a new or variation application is made for premises in that area then they will have to meet a higher threshold than other applications outside of these zones. Applicants will be expected to specifically set out how they will address the key risk factors for these areas within their risk assessments. The Licensing Authority will assess these and determine whether it feels that the steps suitably mitigate the risks of harm in these areas. If applicants do not sufficiently address the concerns then the Licensing Authority may refuse the application on that basis.

Special Policy

- 5.6 The Licensing Service is considering whether the Council establishes the concept of special policies for certain risk areas where there is a history of poor compliance. A

potential area to be considered under special policy provision is Harrow Road and the Prince of Wales Junction. Due to the level of risk within that area and the previous refusal and review there may be sufficient evidence to support a restriction on any new gambling premises due to the impact on the licensing objectives.

Cluster Policy

- 5.7 In September 2016 Geofutures published a further piece of research which was funded by the Responsible Gambling Trust (RGT) which is funded by the gambling industry. This report was titled [‘Examining the effect of proximity and concentration of B2 machines to gambling play’](#). This research used betting operator loyalty card data to examine the relationship between concentrations of category B2 gaming machines (Fixed Odds Betting Terminals FOBT’s) in betting shops and gambling behaviour.
- 5.8 The research found that there were higher gambling prevalence rates in those who had a risk or were considered to be problem gamblers to non-problem gamblers when there are more betting shops in a local area. There was evidence to show that problem gamblers and those who scored a moderate risk of gambling harm were higher in these areas. The research identified that higher density concentrations of B2 gaming machines in betting shops are associated with stronger patterns of gambling.
- 5.9 The Licensing Service has identified 11 clusters of gambling premises (3 or more within 400m of each other) within Westminster (see Appendix two). These are:
1. Victoria
 2. Pimlico
 3. Mayfair (West)
 4. Mayfair (East)
 5. Soho and China Town
 6. Baker Street (North)
 7. Edgware Road (South)
 8. Edgware Road (North)
 9. Queensway (North) and Church Street
 10. Queensway (South)
 11. Harrow Road
- 5.10 It is intended to include a cluster policy that requires operators to have heightened measures in place to identify and support those who may be at risk or who are problem gamblers. Measures may include more support information on site, additional staffing levels to detect those who show signs of gambling related harm and a heightened level

of staff training in identification of problem gambling signs and signposting to local support services.

- 5.11 It is intended to have specific standalone parts to the policy which relate to the six categories of gambling premises (Casinos, betting shops, betting tracks, Bingo, Adult Gaming Centres and Family Entertainment Centres). Each part will contain the policy requirements for those premises and the applications associated with them. The policy requirements and justification will be specific to that licence category. This provides the opportunity to ensure that gambling operators are specifically looking at the relevant policies and the requirements that the Council has set out relating to that gambling operation. It will also enable the Council to specifically review and consult on amendments to those parts at any point within the three year statutory cycle. This will enable specific consideration to that gambling operation and allow for a simpler consultation process.
- 5.12 The proposed new policy for gambling will be significantly different than any other local authority policy in the Country. It will also be the first to use local information to specifically create areas where the test for consideration of applications will be higher based on the local risks. The intention is to include the knowledge and approach that the Council has taken over the 10 years. The aim for the policy is to clearly set out the Council's approach and enable it to be a document that applicants and existing operators must properly consider before applying for or amending an existing licence.

6. Targeted Care Provision and Support

- 6.1 The gambling risk matrix also provides opportunities to target the risk of gambling in hotspot areas. The Licensing Service has been working with Gamcare, which is a prominent national problem gambling care provider. This organisation is based in Clapham with hubs and commissioned services across the country. Gamcare provides telephone support and counselling as well as 'one to one' and group counselling. 'Gambling Support' information from Gamcare is provided in the vast majority of gambling premises and their helpline is prompted on machines and on posters.
- 6.2 Discussions have taken place to consider the potential benefits and opportunities of a partnership with Gamcare and the Council. A number of proposals are being considered, including the following;
- Co-branded gambling support information which is specifically designed for the groups identified within the Geofutures research.
 - Provision of counselling/targeted support for Westminster residents and those using commissioned services by Gamcare.
 - Provision of training by Gamcare to staff within commissioned services on identifying those who are at risk or suffering from gambling related harm, and signposting them to support.
 - Provision of education to young people on the potential dangers of gambling, both on line and premises based,

6.3 The Licensing Service will be looking to work with existing partners such as Public Health, the Homeless Team and other relevant services to develop an approach to support the most at risk groups. For example the partnership with Gamcare can be used to support the Council's Rough Sleeping Strategy. It was identified in research commissioned by the Homeless Team that 11.9% of those using Council commissioned homeless hostels were at risk of gambling related harm. In male residents that rose to 40% were at risk to gambling related harm. The Rough Sleeping Strategy is committed to providing problem gambling support services.

6.4 Early discussions indicate that limited funding would be required to fund Gamcare services. Gamcare would require accommodation to enable one to one or group counselling sessions. There will be some cost associated with branded messaging, if that were agreed, and education to young people. Gamcare would also be in a position to provide education to young people on the dangers of gambling (online as well as premises based). The education service would require funding but it could be considered as part of further developing this partnership if targeted support services were successful.

7. Risk and mitigation

7.1 Westminster's lead in this area and this new approach to gambling policy may pose a risk of challenge from certain areas of the gambling trade. The draft policy will go through a thorough internal scrutiny which will include legal experts. Once the draft is approved for consultation it is intended to consult widely on the new statement in late spring for a period of 12 weeks. The Licensing Service will also undertake a number of workshops to set out the rationale for our policies and also record attendee's views as part of the wider consultation.

8. Next Steps

8.1 The risk matrix was the first of its kind in the United Kingdom. It used national and local data. As data is updated there is a need to update the data that has developed the matrix. Other evidence, such as low income and the impact on gambling related harm, which had little evidence when the research was completed, is now emerging. This new data set relating to low income could change the matrix and identify a new at risk group within Westminster. The Licensing Service has discussed the cost of updating the current data sets and incorporating the new low income evidence into the matrix with Geofutures. The cost to carry out that piece of work is approximately £15,000.

8.2 The Licensing Service has had discussions with Public Health about conducting a gambling risk prevalence audit of service users. That audit would require each service user to complete a short questionnaire. The results of that questionnaire can then be assessed to score the risk of gambling related harm to that person. The results could enable a better weighting and evidence base of the actual gambling risk rate between those who are more at risk to gambling related harm. For example we would be able to establish what the average risk is for those who have alcohol or drug addiction, those who are homeless or those who have mental health problems or learning disability. This would provide the Council with more evidence to support its work on preventing gambling related harm. It can also be used to support policy development and lobby the government on the risks associated with gambling.

- 8.3 The Licensing Service plans to provide further updates to the Cabinet Member for Public Protection and Licensing on the propose gambling licensing policy within the next few months. Once the approach and draft policy document has been reviewed by legal and approved by the Cabinet Member a 12 week consultation period will commence. Following the completion of that public consultation the consultation responses and planned approach relating to the policy will be put before the Cabinet Member in September/October 2017. If agreed the policy will be put forward for decision November 2017 with a suggested publication date on 6th January 2018.

Appendices

Appendix One – Geofutures Gambling Risk Matrix Westminster

Appendix Two – Westminster Gambling Premises Clusters

Gambling Risk Matrix

Appendix One

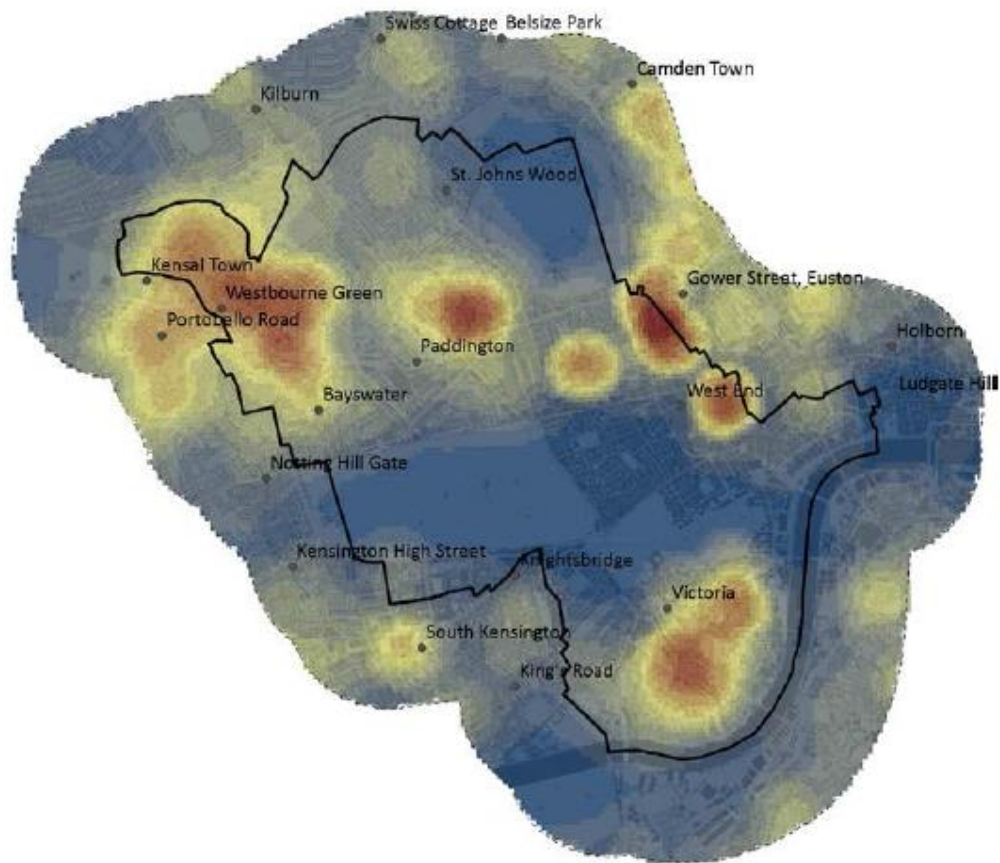
Risk index

Westminster City Council Boundary

Westminster City Council 1km Buffer

Composite Index

- 0 - 4
- 4.1 - 8
- 8.1 - 12
- 12.1 - 16.2
- 16.3 - 20.6
- 20.7 - 24.9
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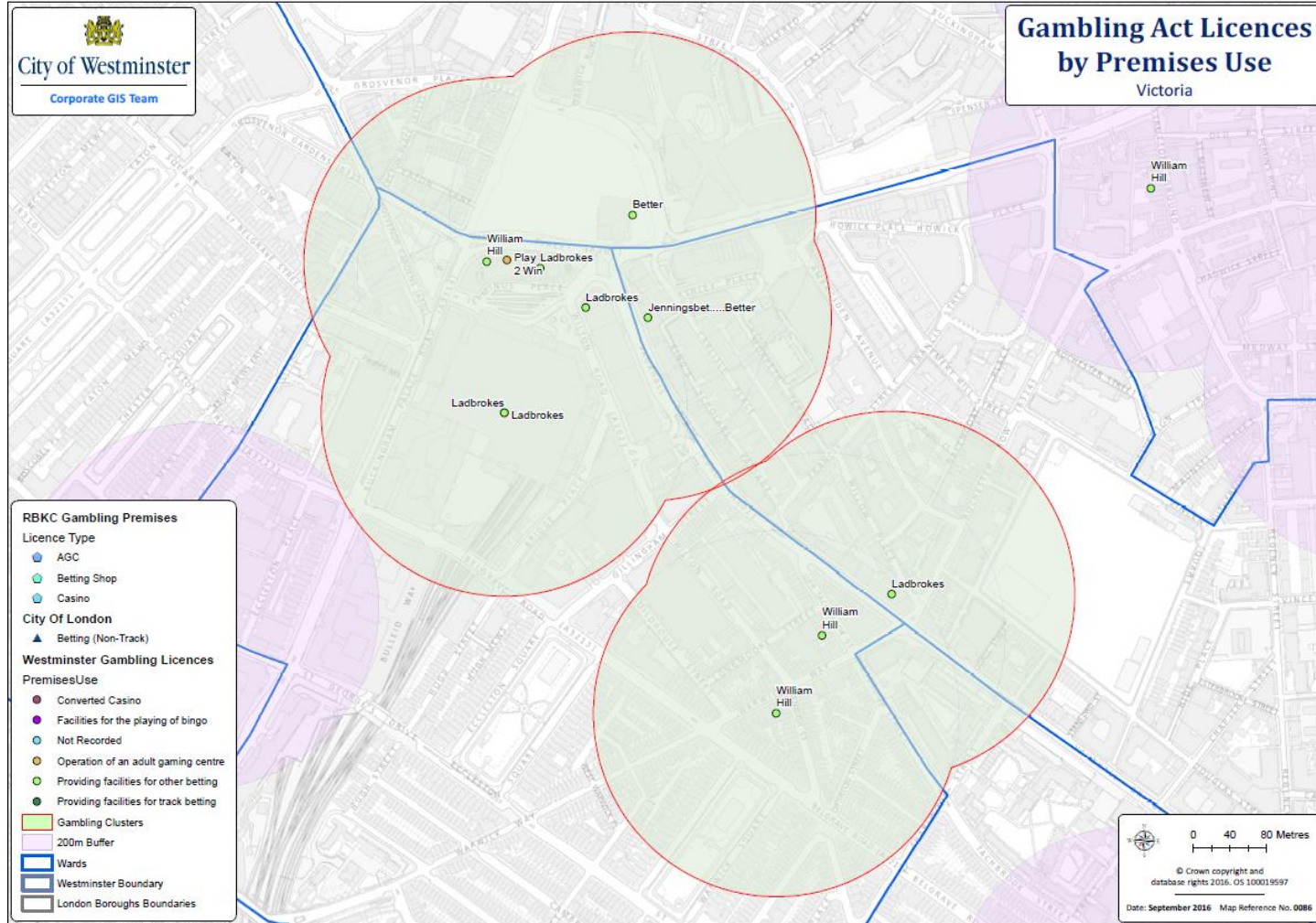


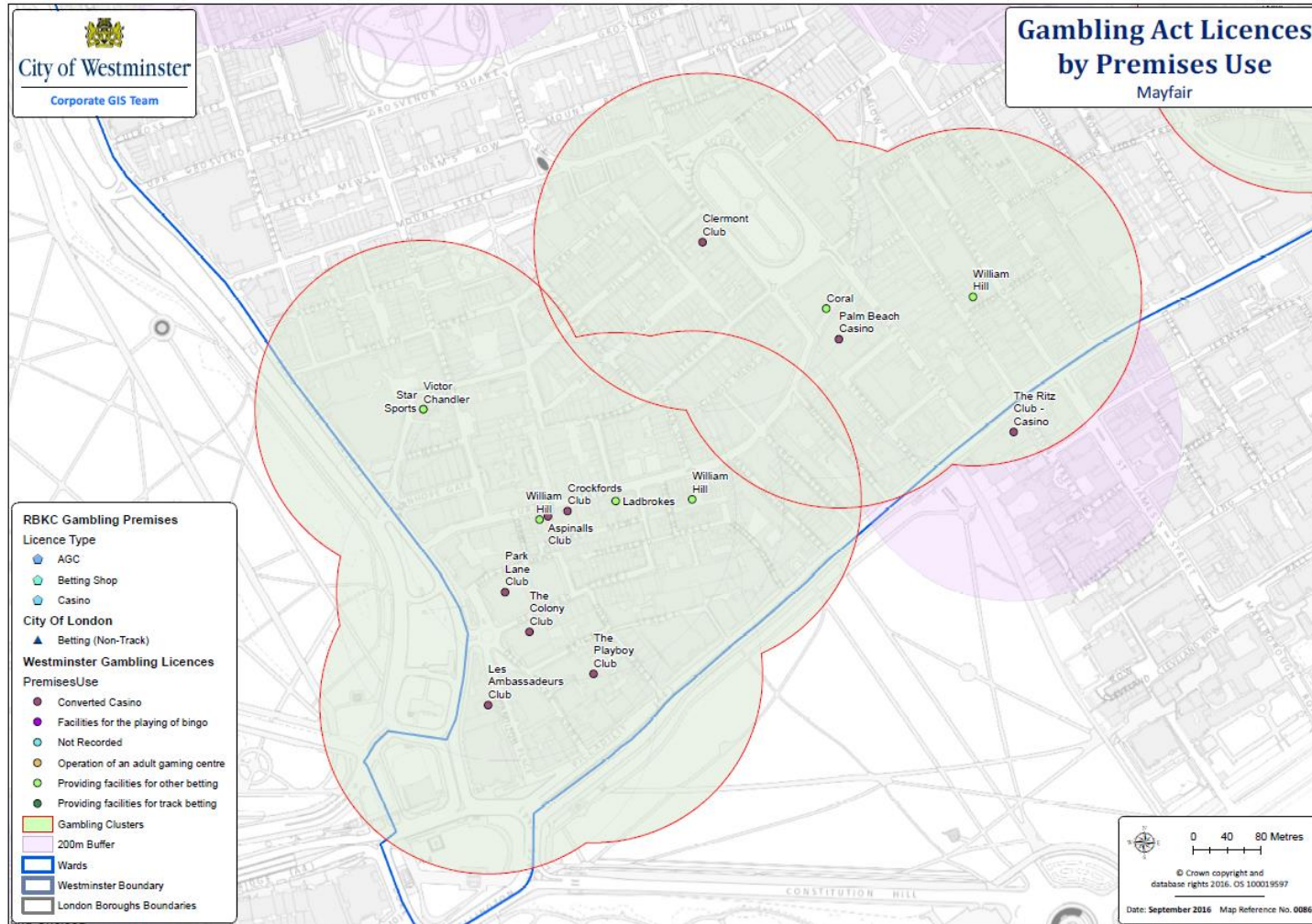
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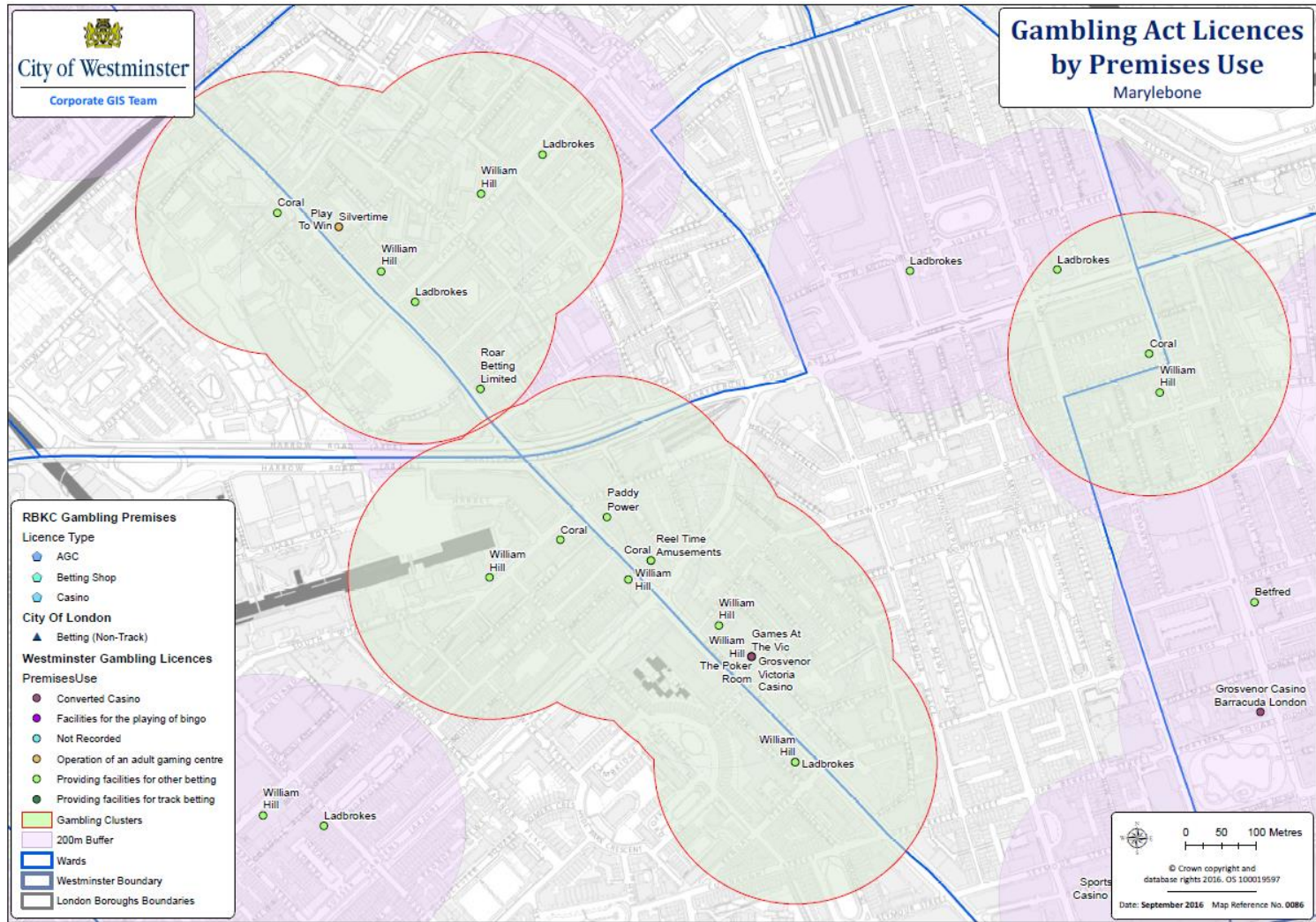
Gambling Premises Clusters

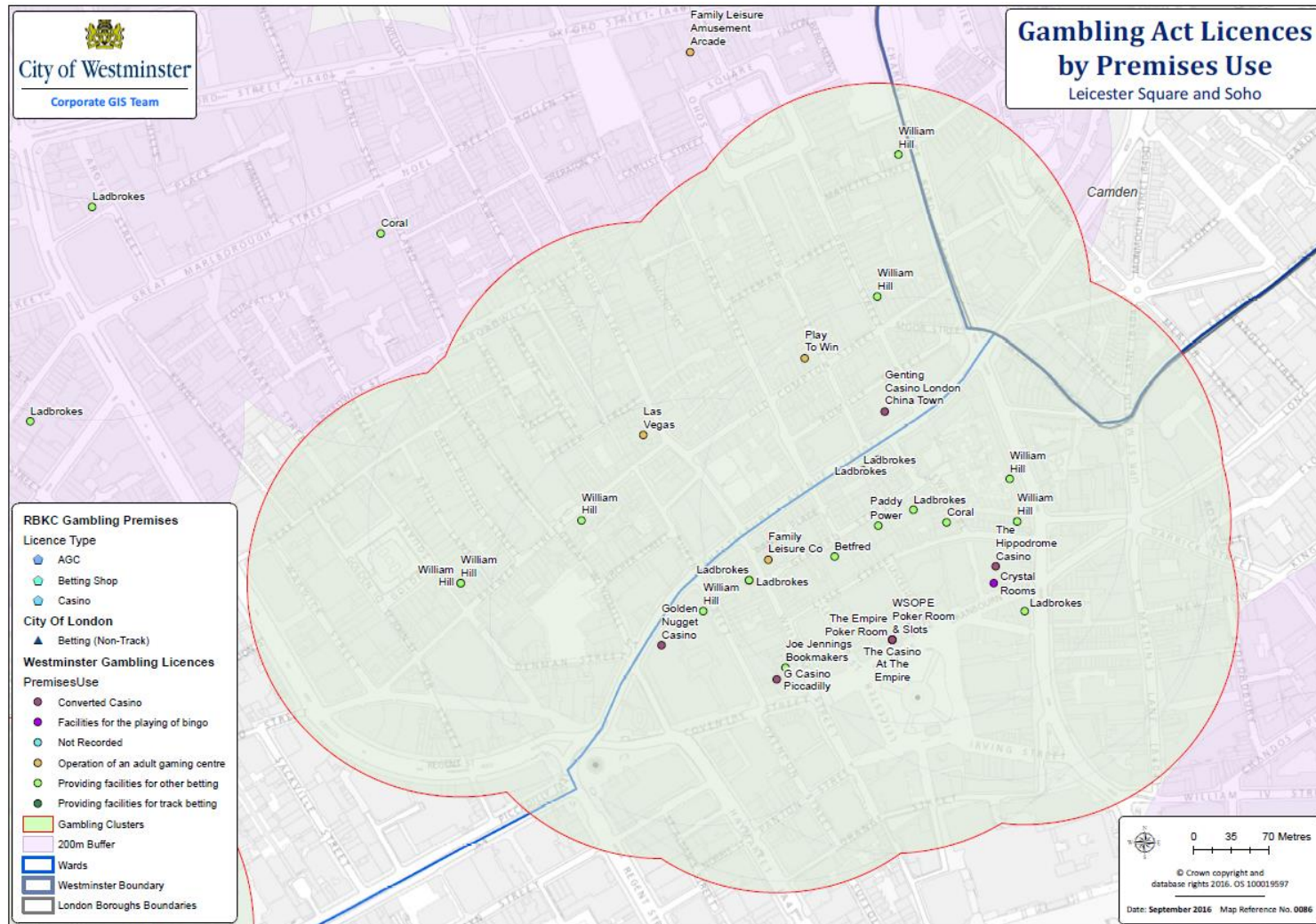
Appendix Two

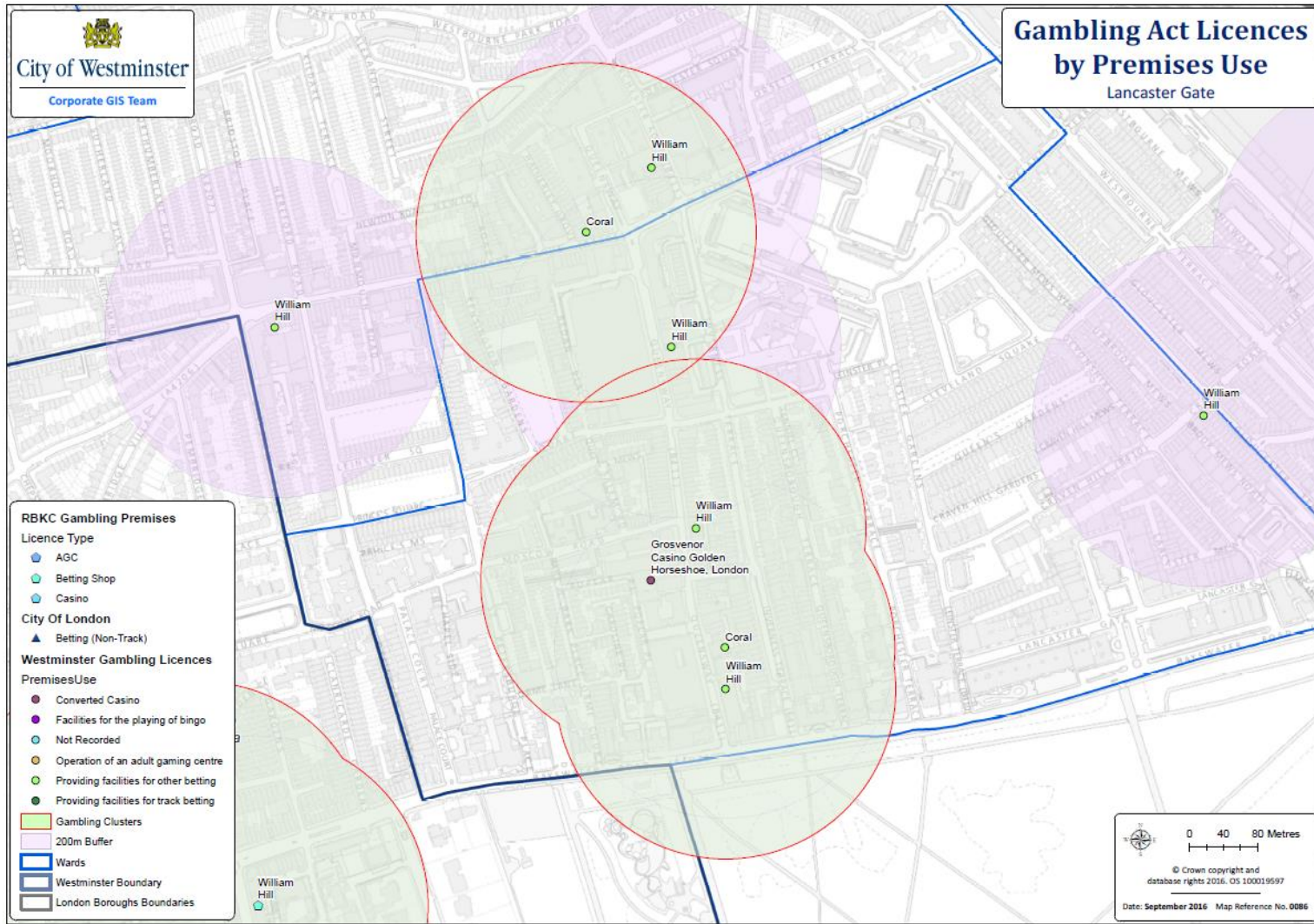
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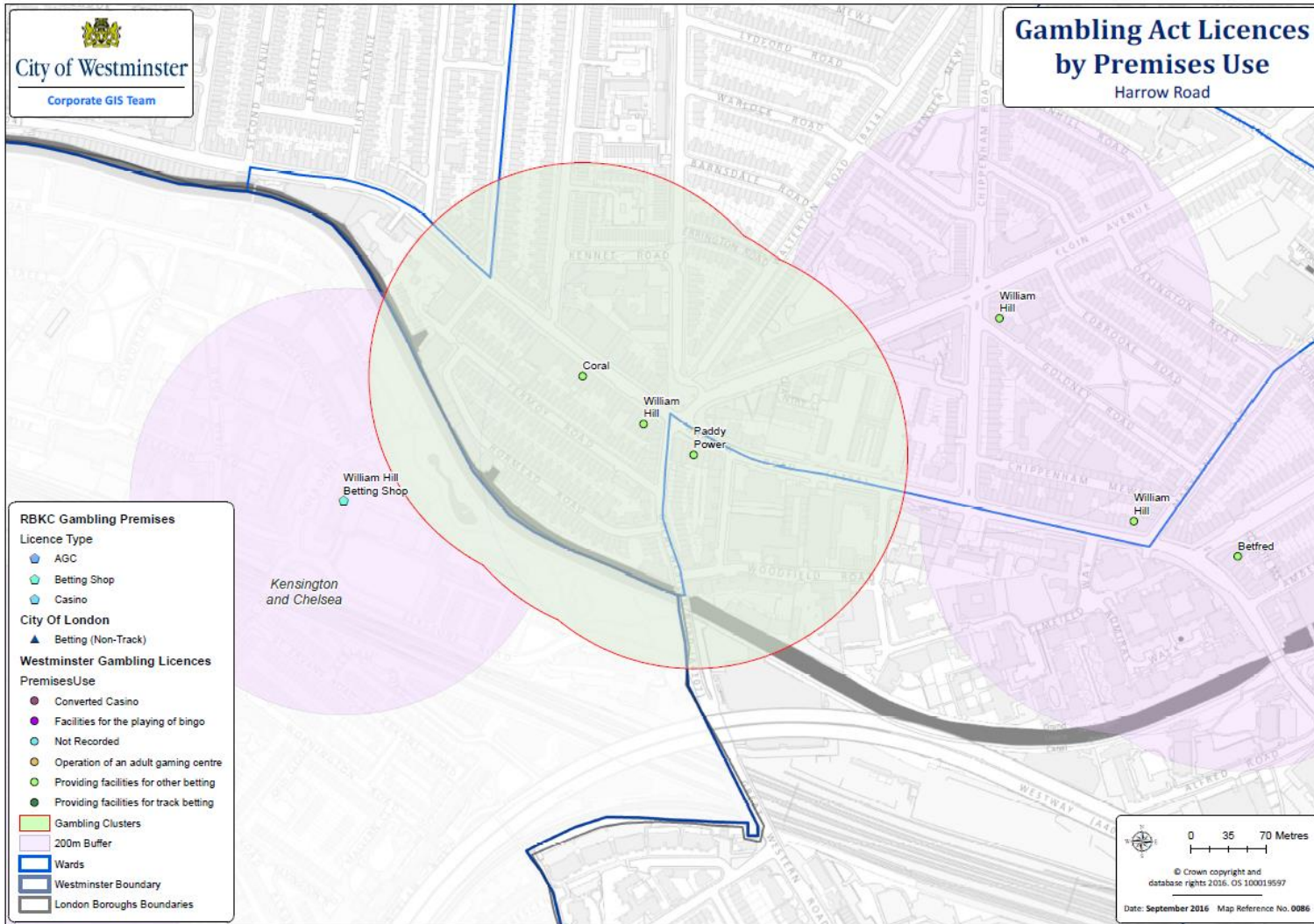












If you have any queries about this report or wish to inspect any of the Background Papers please contact: Mr Kerry Simpkin on 020 7641 1840 or email ksimpkin@westminster.gov.uk

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City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>22nd March 2017</i>
Classification:	<i>For General Release</i>
Title:	<i>Licensing Act 2003 Delegated Officer Decisions 2016/17</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>There are no financial impacts associated with this report.</i>
Report of:	<i>Director of Public Protection and Licensing</i>

1. Executive Summary

- 1.1 Following a request from the Chair of the Licensing Committee the Licensing Team has undertaken a full review of Licensing Act 2003 new and full variation applications that were determined under officer delegated authority between 1st July 2016 and 2nd March 2017. The review sought to alleviate concerns raised by members of the Licensing Committee that applications were being determined under officer delegation against the Council's Licensing Policy.
- 1.2 This report sets out the criteria and process that the Licensing Team has in place when determining applications under delegated authority, the volumes and types of applications determined under delegated authority between the 1st July 2016 and 2nd March 2017 and any applications that were granted by officers outside of policy.

2. Recommendations

- 2.1 The Licensing Committee is recommended to note the content of this report.

3. Background

- 3.1 The power of officers to determine certain types of licence or other authorisation applications has been in place for many years. Powers are delegated to officers

from the Licensing Committee. The Licensing Act 2003 (the Act) is responsible for the majority of applications received by the Licensing Team and also represents the vast majority of applications determined by Licensing Sub-Committees.

- 3.2 The Act specifies the licensing functions that may be discharged to the Licensing Committee, Licensing Sub-Committee and officers. Section 7(2) of the Act specifies that the functions associated with the Licensing Policy and a non-licensing function may not be determined by the Licensing Committee. Section 10 of the Act provides for the sub-delegation of functions by the Licensing Committee.
- 3.3 The Licensing Committee may delegate certain licensing functions to either a Licensing Sub-Committee or officers. However, delegation to officers is limited. Section 10(4) sets out the functions that an officer cannot be delegated to determine. These are:
 - 3.3.1 determination of applications for a new premises licence, variation to an existing premises licence or provisional statement where representations have been made (sections 18(3), 31(3) and 35(3))
 - 3.3.2 determination of application to vary designated premises supervisor or transfer following police objection (sections 39(3) and 44(5))
 - 3.3.3 consideration of police objection made to interim authority notice (section 48(3))
 - 3.3.4 determination of interim steps pending summary review (section 53A(2)(a) or 53B)
 - 3.3.5 determination of application for a club premises certificate or to vary an existing club premises certificate where representations have been made (sections 72(3) and 85(3))
 - 3.3.6 decision to give a counter notice following police objection to a temporary event notice (section 105(2))
 - 3.3.7 determination of application for the grant of a personal licence following police objection (section 120(7))
 - 3.3.8 revocation of a personal licence where convictions have come to light after grant etc (section 124(4))
 - 3.3.9 determination of a review application for a premises licence or club premises certificate (sections 52(2) or (3), 53C, 88(2) or (3) or 167(5))
- 3.4 Officers do have the power to determine applications if the representation(s) are withdrawn or in some cases where all parties agree that a hearing is unnecessary.
- 3.5 The Council's Licensing Policy sets out a useful table which lists the matters to be dealt with by the Licensing Authority and when the decision will be made by the Licensing Committee or Sub-Committee or an officer. A copy of this table is attached at Appendix 1 to this report.

- 3.6 The Licensing Team were asked to assess the applications that were determined under officer delegated authority in 2016/17. Concerns had been raised by members of the Licensing Committee to the Chair that applications may have been granted by officers when the application was against the Council's Licensing Policy.

4. Delegated authority criteria

- 4.1 The Licensing Authority must grant an application for a new premises licence or to vary an existing licence if no representations are received. The standard approaches taken by the Licensing Team for new and variation applications decisions are as follows:
- 4.1.1 No representations received – Grant the licence
 - 4.1.2 Valid representation received but later withdrawn – Grant the licence
 - 4.1.3 Valid representation received and not withdrawn – Application to be referred to the Licensing Sub-Committee for determination
 - 4.1.4 Valid representation received but all parties agree that a hearing is not necessary – Granted the licence
- 4.2 The withdrawal of representations is a common occurrence for those submitted by responsible authorities. The Police or the Council's own Environmental Health Consultation Team will carry out an initial assessment of an application and submit a representations. This is normally because there is insufficient information submitted within the application and further discussion or documents are required. Once discussions, additional documents have been provided or the applicant amends the application to address any concerns then the responsible authority may feel that the application will no longer adversely affect one or more of the Licensing Objectives. They will then withdraw their representation.
- 4.3 An agreement between all parties that a hearing is unnecessary is also common place. This agreement is normally associated with applications where one or more responsible authorities have made representations. The representation would have been submitted due to concerns with the proposed application and the impacts on one or more of the Licensing Objectives. However, following discussions, production of documents or the applicant amending their application the responsible authority may agree a set of conditions which if included on the licence would address any concerns that they have. If an agreement is made then all parties will agree that a hearing is unnecessary.
- 4.4 The Council's Environmental Health Consultation Team has, since the introduction of the Act made representations to support the Council's Licensing Policy. If an application is made and the Council's policy is to refuse such applications then they would maintain their representation so that the application is determined by a Licensing Sub-Committee.

- 4.5 However, since September 2016 the Council's Licensing Team, acting as a responsible authority, has also been making representations on policy grounds and when evidence or concerns have been raised by the Council's City Inspectors.
- 4.6 The Licensing Team are now making representations for the Licensing Authority relating to applications that are against policy. This approach has been introduced to develop a consistent approach to policy representations and to reduce the need for Environmental Health Officers to attend hearings when the main concern is associated with policy.
- 5. Delegated authority decisions review**
- 5.1 The Licensing Team processes, on average over 6200 applications per year. In 2016/17 (until 2nd March 2017) the Licensing Team had received the following Licensing Act 2003 applications:

Application Type	Applications Received
New Premises Licence	185
Premises Licence Full Variation	156
Premises Licence Minor Variation	264
Provisional Statement	3
Premises Licensing Vary Designated Premises Supervisor	938
Premises Licence Transfer	242
Designated Premises Supervisor Request to be Removed from licence	15
Interim Authority Notice	3
Premises Licence Change of licensee details	81
Premises Licence Change of Designated Premises Supervisor details	3
Premises Licence Change of Trading As Name	21
Premises Licence Duplicate Licence Request	6
Premises Licence Removal of works conditions	38
Premises Licence Review	5
Premises Licence Expedited Review	1
Premises Licence Notification of Interest	378
Club Premises Certificate Full Variation	1
New Personal Licence	236
Personal Licence Change of Name	4
Personal Licence Change of Address	65
Personal Licence Duplicate Licence Request	23
Temporary Event Notices	2911
Total	5603

- 5.2 The table below shows all new and full variation applications that were granted by Licensing Sub-Committee and by officers under delegated authority in 2015/16 and 2016/17.

Applications Granted (All premises uses)			
Year	Application Type	Licensing Sub-Committee	Officers
2015/16	New	83	103
	Variation	40	101
	Total	123	204
2016/17	New	48	79
	Variation	21	92
	Total	69	171

- 5.3 The two tables below show the number of new and full variation applications determined by the Licensing Sub-Committee and officers under delegated authority within the three Cumulative Impact Areas in 2015/16 and 2016/17.

New Applications Granted (All premises uses)			
Year	Cumulative Impact Areas	Licensing Sub-Committee	Officers
2015/16	Edgware Road	4	3
	Queensway and Bayswater	3	3
	West End	31	33
2016/17	Edgware Road	0	1
	Queensway and Bayswater	3	3
	West End	25	27

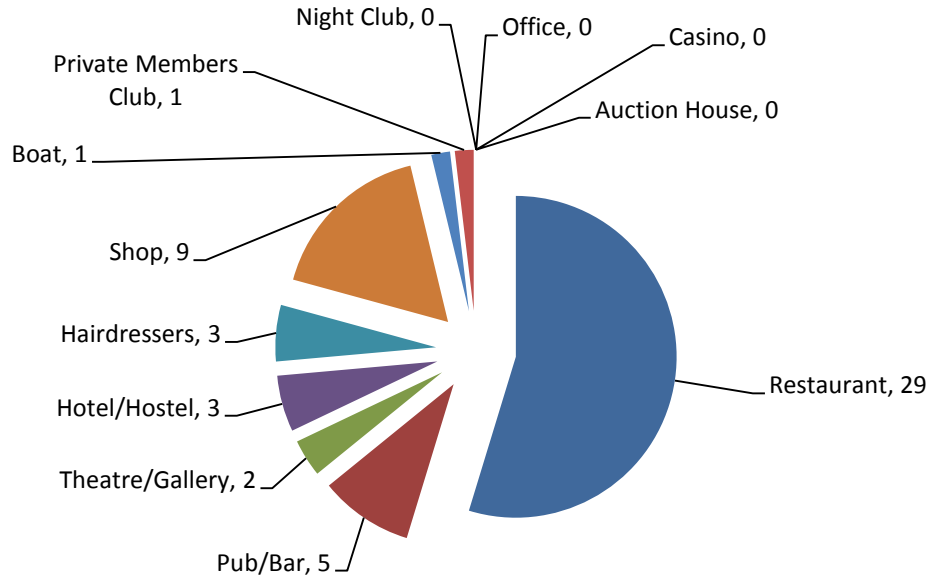
Full Variation Applications Granted (All premises uses)			
Year	Cumulative Impact Areas	Licensing Sub-Committee	Officers
2015/16	Edgware Road	0	0
	Queensway and Bayswater	0	3
	West End	19	40
2016/17	Edgware Road	0	1
	Queensway and Bayswater	1	4
	West End	8	35

- 5.4 The majority of the new applications received within the Cumulative Impact Areas that were determined by officers were either restaurants or shadow licences for existing premises.
- 5.5 The application to vary existing premises within the Cumulative Impact Area was predominantly associated with the variation of the layout of the premises or to amend conditions on the licence.

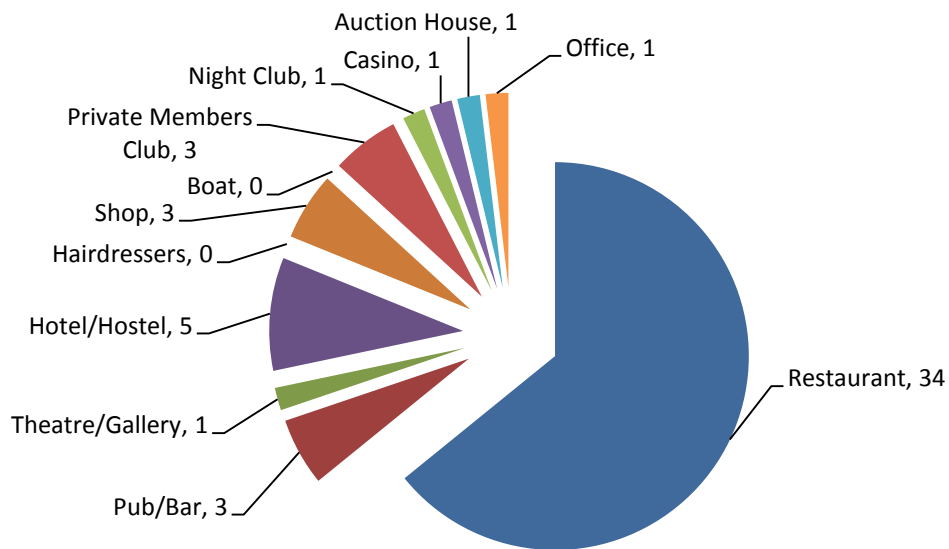
6. Delegated authority decision review findings

- 6.1 The concerns voiced by members related to both application decisions that may have been determined by officers against policy, and the time frames involved. In undertaking this review, the Licensing service has focused on new and full variation applications under the Act. Due to the volume of minor variation applications determined by officers between 1st April 2016 and 2nd March 2017 officers did not assess these decisions due to the short time scales required to produce this report. The Licensing service can undertake a review of minor variation applications under the Act for a future Licensing Committee hearing, if members feel it is necessary.
- 6.2 The Licensing Service undertook a comprehensive review of all new and full variation applications determined between the 1st July 2016 and the 2nd March 2017. This represented 54 new and 55 full variations applications; and 1 Provisional Statement.
- 6.3 The Licensing service reviewed 110 applications to identify the following information:
 - 6.3.1 Premises operation (e.g. restaurant, night club, etc).
 - 6.3.2 Whether the application, when submitted had any policies that applied to it.
 - 6.3.3 Whether a representation was made, who made it and whether it was withdrawn or an agreement was made that a hearing was unnecessary.
 - 6.3.4 Whether the application was amended in any way following the conditions.
 - 6.3.5 What the final criteria was relating to its determination, and
 - 6.3.6 How many applications were granted outside of policy.
- 6.4 The pie charts below show the breakdown of officer decisions by the type of premises operation (54 new and 55 full variation applications).

New Applications Determined By Officers Delegation 2016/17



Variation Applications Determined By Officers Delegations 2016/17



- 6.5 Of the 110 applications determined by officers within this period, 19 received no representations as they were within policy and there were no concerns associated with the application.

The following table shows the representations made per responsible authority or other persons for the 110 applications determined.

Responsible Authority or other persons	Number of applications that received a representations*
Licensing Authority	13
Environmental Health	83
Police	64
Local Residents	16
Amenity Society	13

** Some applications received representations from more than one responsible authority or other party.*

- 6.6 Applicants will aim to try and address the concerns made by the responsible authorities or other persons within their representations. When that is not possible then the application will be brought before the Licensing Sub-Committee. However, if concerns can be addressed by conditions or amendments to the application then that can result in the determination of the application without the need for a hearing.
- 6.7 Of the 110 applications that were assessed 83 were amended or had conditions added before the responsible authority or other persons either withdrew their representation or agreed that a hearing was not necessary.
- 6.8 No applications were found to be outside any policies where there is a presumption to refuse. The vast majority of applications did have an element of policy that needed to be considered in addition to the impact the proposed application would have on one or more of the Licensing Objectives. Officers as part of their consideration took into account the Council's policy before agreeing their approach.

7. Restaurants and the Licensing Policy

- 7.1 The tables below set out the applications relating to restaurants or food led premises that were determined within the Cumulative Impact Area and who determined those applications.

New Applications Granted (Restaurant)			
Year	Cumulative Impact Areas	Licensing Sub-Committee	Officers
2015/16	Edgware Road	1	1
	Queensway and Bayswater	1	1
	West End	12	14
2016/17	Edgware Road	0	0
	Queensway and Bayswater	2	2
	West End	8	11

Full Variation Applications Granted (Restaurant)			
Year	Cumulative Impact Areas	Licensing Sub-Committee	Officers
2015/16	Edgware Road	0	0
	Queensway and Bayswater	0	2
	West End	13	12
2016/17	Edgware Road	0	1
	Queensway and Bayswater	1	3
	West End	7	25

- 7.2 The council's Cumulative Impact Policy 1 (CIP1) requires restaurant applications within the Cumulative Impact Areas be subject to other relevant policies and, must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.

The relevant policy for restaurants within the Cumulative Impact Areas is RNT2. RNT2 states that applications will be subject to other policies and relevant criteria in the prevention of crime and disorder (CD1), public safety (PS1), prevention of public nuisance (PN1) and protecting children from harm (CH1) policies, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

- 7.3 Of the 110 applications assessed, it was clear that officers, in determining applications, had a stepped approach to their assessment. Firstly they

considered whether the premise was a restaurant as defined within RTN2. Potential impact from the proposed operation under policies CD1, PS1, PN1 and CH1 was subsequently assessed. Officers also determined whether specific changes to the application were required or whether additional conditions should be imposed on a licence. All of the officer delegated decisions referenced in the tables at 7.1 above resulted in the addition of specific conditions associated with the operation of that premises or an amendment to the application following representations.

8. Legal implications

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

Appendices

Appendix 1 Licensing Policy Appendix 3 – Committees and delegation decision making chart

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Mr Kerry Simpkin on 020 7641 1840 or email ksimpkin@westminster.gov.uk

BACKGROUND PAPERS

- Licensing Act 2003
- Westminster City Council's Licensing Policy, effective 7th January 2016
- Licensing Team Delegated Authority Decision Spreadsheet

Appendix 3. - Committees and delegation decision making chart

MATTER TO BE DEALT WITH	LICENSING COMMITTEE OR SUB COMMITTEE	OFFICERS
Application for personal licence	If a police objection is made	If no objection is made
Application for personal licence with unspent convictions	All cases	
Application to vary designated personal licence holder	If a police objection is made	All other cases
Request to be removed as designated personal licence holder		All cases
Application for premises licence/club premises certificate	If a relevant representation is made	If no relevant representation is made
Application for provisional statement	If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate	If a relevant representation is made	If no relevant representation is made
Application for a minor variation to a licence / certificate		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for Interim Authorities	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	

MATTER TO BE DEALT WITH	LICENSING COMMITTEE OR SUB COMMITTEE	OFFICERS
Decision on whether a ground for review is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the lead authority		All cases
Determination of a police representation to a temporary event notice	All cases	



City of Westminster

Licensing Committee

Item No:	
Date:	22 March 2017
Classification:	For General Release
Title of Report:	Licensing Appeals
Report of:	Director of Law
Wards involved:	Not applicable
Policy context:	A business like approach
Financial summary:	None
Report Author:	Hayley Davies, Legal Services
Contact details	Tel: 020 7641 5984 Email: hdavies@westminster.gov.uk

1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendations

2.1 That the report be noted.

3. Background

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

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

4. Licensing Appeals

4.1 Chutney Mary, 72-73 St James's Street, London, SW1 (Licensing Act 2003)

The matter concerns an application by an Indian restaurant in St James known as Chutney Mary. The premises applied to vary their licence so as to permit the sale of alcohol until 20.00 without food on the premises. The proposed variation concerned condition 19 on the premises which provides that:

Alcohol may be supplied to customers without food provided that:

- a) Such supply shall only be to persons seated and served by waiter / waitress service
- b) Such supply shall cease at 20.00
- c) Such supply shall be limited to 30 customers to be seated in the area hatched black and shown on plan number 3346/LIC2.22

The availability of alcohol without food shall not be promoted or advertised otherwise than on menus and price lists within the premises.

Relevant representations were received from Environmental Health, 11 local residents and the St James' Conservation Trust. Environmental Health and one of the residents, Mr Turner, were present at the Licensing Sub-Committee hearing and made oral representations.

The main issue in the appeal will be whether this restaurant should be permitted to operate a bar area where 30 customers are permitted to purchase alcohol without food until 20.00 hours. Having considered the papers and heard representations, the Licensing Sub-Committee decided that that it did not have confidence in the operator upholding the licence objectives and complying with licence conditions, in view of admitted breaches in licence conditions in the past, and credible evidence from residents of noise and odour nuisance in the past. The Licensing Sub-Committee therefore refused the variation application. Notice of appeal was lodged by MW Eat Ltd against the decision of the Sub-Committee. The appeal was listed for a three day hearing on 13th – 15th February 2017. Prior to the appeal being heard, a proposed offer of settlement

was received from the Appellants offering to reduce the number of persons permitted to purchase alcohol without food to 20 persons and to reduce the hour to which that can take place to 19.30. The proposal was referred back to the Licensing Sub-Committee for consideration. The Licensing Sub-Committee authorised the settlement of the appeal on the terms proposed and on the condition that 1) the appellants pay the Council's costs incurred to date in defending the appeal and 2) that an additional condition be added to the licence prohibiting patrons from taking open drinks outside the premises. The Appeal was therefore settled and the dates of the full hearing vacated.

4.3 28th Floor and 29th Floor Millbank Towers, 21-24 Millbank SW1 (Licensing Act 2003)

Applications for review of the premises licences in respect of both the 28th floor and 29th floor of Millbank Tower were submitted by the Metropolitan Police on the grounds of the prevention of crime and disorder and public safety. The applications followed a number of incidents of crime and disorder having taken place on the 28th floor on the night of the 26th March 2016. Several people had been seriously assaulted inside the premises. Due to the serious nature of the incidents and the lack of effective management the Metropolitan Police sought the revocation of the premises licences for both the 28th and 29th floors of Millbank Tower. The Police advised that had they been made aware of the nature of the incidents initially by the applicant, they would have submitted an expedited review. The Police had only become aware of the serious nature of the incidents when they had viewed the CCTV and carried out further investigations into the incidents.

A Licensing Sub-Committee considered the applications on 4 July 2016. Having considered the evidence and heard from those present, the Sub-Committee took the view that it lacked confidence in the company's ability to promote the licensing objectives based on the management's failure to comply with conditions on the premises licences and liaise with Police. The Sub-Committee was concerned to note that even prior to the review hearing, the Licence Holder had failed to liaise with the Police regarding the proposed conditions. The Sub-Committee shared the serious concerns of the Police and had no confidence in staff, including those who had been in place before and after the event in March. The Sub-Committee having regard to the full set of circumstances, the crime and disorder and public safety licensing objectives which were not being promoted by the licence holder, considered it appropriate and proportionate to revoke the premises licences for the 28th and 29th floors.

Appeals were lodged by the Applicant's on 20 September 2016. The appeals will be heard over 4 days commencing on 28th March 2017 through to 31 March 2017.

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

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

proposed to vary the layout of the premises, to permit full nudity for dancers and to reduce capacity.

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

A date for the full hearing of the appeals will be set within the next few weeks

5. JUDICIAL REVIEWS / CASE STATED

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

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

The issues remaining outstanding are remedy and costs. Both the claimants and the City Council have now submitted representations to the Court on those issues. The Supreme Court will now decide whether to determine those issues itself, with or without a further hearing, or whether to remit them to the High Court for a further hearing.

6. Legal implications

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

7. Staffing implications

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

8. Business plan implications

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

9. Ward member comments

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

10. Reason for decision

10.1 The report is for noting.

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

Background Papers

- None

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