



City of Westminster

# Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 9th March, 2016**

Time: **11.30 am**

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

Members: **Councillors:**

Nickie Aiken (Chairman)	Murad Gassanly
Heather Acton	Angela Harvey
Rita Begum	Louise Hyams
Susie Burbridge	Tim Mitchell
Melvyn Caplan	Jan Prendergast
Nick Evans	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 11.00am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.**



**An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Jonathan Deacon.**

**Email: [jdeacon@westminster.gov.uk](mailto:jdeacon@westminster.gov.uk) Tel: 020 7641 2783  
Corporate Website: [www.westminster.gov.uk](http://www.westminster.gov.uk)**

**Note for Members:** Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

## **AGENDA**

### **PART 1 (IN PUBLIC)**

- a) **Gambling report**
- a) **Appeals Report**

(Pages 1 - 52)

(Pages 53 - 58)

**Charlie Parker**  
**Chief Executive**  
**8 March 2016**



City of Westminster

# Licensing Committee Report

<b>Meeting:</b>	<i>Licensing Committee</i>
<b>Date:</b>	<i>Wednesday 9<sup>th</sup> March 2016</i>
<b>Classification:</b>	<i>For General Release</i>
<b>Title:</b>	<i>Gambling Risk Assessments, results from the Council's research into area based vulnerability to gambling and the proposals for the revision of the Council's Statement of Licensing Principles for Gambling</i>
<b>Wards Affected:</b>	<i>All</i>
<b>Financial Summary:</b>	<i>N/A</i>
<b>Report of:</b>	<i>Director for Public Protection and Licensing</i>

## **1. Executive Summary**

- 1.1 This report sets out the new risk assessment requirements for gambling premises that will come into effect on the 6th April 2016, the recent results from the Council's commissioned research on area based vulnerability to gambling related harm and the proposals for the revision of the Council's Statement of Licensing Principles for Gambling to encompass these developments.

## **2. Recommendation**

- 2.1 That the Committee note the content of this report.

## **3. Background**

- 3.1 Westminster City Council is a Licensing Authority under the Gambling Act 2005 (the Act). The Licensing Authority is responsible for considering and determining applications for premises licences which offer gambling facilities within Westminster. The Licensing Authority also has a role in gambling regulation by ensuring compliance with the Act.
- 3.2 The Act contains three licensing objectives which guide the way that the Licensing Authority performs its functions and the way that gambling operators carry on their activities. They are:

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
  - (b) ensuring that gambling is conducted in a fair and open way.
  - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.3 The Act places a legal duty on the Licensing Authority to aim to permit gambling in so far as it thinks it reasonably consistent with the licensing objectives. The effect of this duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers where appropriate, for example to attach conditions to licences to moderate their impact on the licensing objectives, rather than by setting out to prevent gambling altogether.
- 3.4 The Licensing Authority will set out how it intends to carry out its functions under the Act in its Statement of Licensing Principles, also known as Licensing Policy. This statement is kept under review and is updated every three years (as a minimum).
- 3.5 The Gambling Commission is responsible for issuing operating licences to gambling operators who are deemed suitable and competent to provide facilities for gambling. As a requirement of these operating licences, gambling operators must ensure that they comply with and meet the requirements of the Licence Conditions and Codes of Practice (LCCP).

#### **4. Local Area Gambling Risk Assessments**

- 4.1 The Commission introduced new provisions in its social responsibility code within the LCCP, which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- 4.2 The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that Westminster has been doing for a number of years and continues to champion. We have found that a risk-based approach to regulation is beneficial for businesses and the authority to prioritise their actions in response to the identified risk.
- 4.3 The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event

happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.

- 4.4 Gambling operators will be required to undertake a risk assessment for all of their existing premises by 6<sup>th</sup> April 2016. Following that date operators must also undertake a review of those assessments when certain triggers are met. These triggers, along with the Council's views on what may instigate either a new assessment or the review of an existing one are detailed within this guidance document.
- 4.5 In February 2015, following substantial consultation with relevant stakeholders the Commission introduced a new social responsibility code provision making it a requirement for certain gambling operators to assess the local risks to the licensing objectives posed by each of their premises based gambling operations. The Commission also introduced an ordinary code provision relating to sharing local risk assessments. The relevant provisions of the code state:

**Social responsibility code provision 10.1.1**

**Assessing local risk**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.**

***This provision comes into force on 6 April 2016***

- 1** Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
- 2** Licensees must review (and update as necessary) their local risk assessments:
  - a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
  - b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - c** when applying for a variation of a premises licence; and
  - d** in any case, undertake a local risk assessment when applying for a new premises licence.

**Ordinary code provision 10.1.2**  
**Sharing local risk assessments**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences**

***This provision comes into force on 6 April 2016***

- 1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

- 4.6 These code provisions come into effect on 6<sup>th</sup> April 2016. As a result, all premises that provide facilities for gambling within Westminster must be assessed to identify the local risks posed by the provision of gambling facilities in their respective locations.
- 4.7 In an attempt to assist gambling operator's develop their local risk assessments officers have produced a 'Guide to undertaking a local gambling risk assessment' (see Appendix 1). The original draft of this document was consulted upon in June 2015 for a period of 8 weeks to enable gambling operators and stakeholders a chance to consider and comment on this document. A number of responses were received, predominantly from betting operators. Following the end of the consultation on the guide officers were approached by Coral Racing Limited. Coral had adopted the risk assessment template from within the Council's draft guide and had made some tweaks to make it more appropriate for operators.
- 4.8 Following discussions with Coral and Council officers a final version of the guide was produced and has now been published. A number of local authorities have adopted the risk assessment guide or template or have made adjustments to these documents to adapt it to their local authority requirements.

## **5. Area Based Vulnerability to Gambling-Related Harm Research**

- 5.1 In 2014 Officers felt it was necessary to look to see how the City Council could further develop its Statement of Licensing Principles for Gambling. There was a specific concern that there was a lack of knowledge as to who is vulnerable to gambling related harm and where higher concentrations of vulnerable groups were located within Westminster. Following discussions with Manchester City Council, who had similar concerns both authorities agreed to seek to commission research into local vulnerability to gambling related harm. The Local Government Association provided financial support to the proposal to carry out this research.
- 5.2 In March 2015 Geofutures: Gambling and Places Research Hub was commissioned to carry out this research in both Manchester and Westminster. The first phase of the project was to define what people thought vulnerable meant as this was not defined within the Act. Following interviews with key

stakeholders, who included gambling operators and lawyers a list of people or groups of people was compiled. From that list the researchers look at the academic research and whether these assumptions were supported with evidence. These vulnerable individuals or groups were then grouped into four common themes, demographic, socio-economic, poor judgement/impairment and other.

5.3 There was good evidence for a number of the vulnerable groups identified. There was also some emerging evidence for some of these groups. The table below shows the vulnerable groups identified through the interviews. The darker shaded boxes were those that had good evidence to support the view that they were vulnerable to gambling related harm. The lighter shaded boxes are the groups that were found to have emerging evidence that they may be vulnerable and those without shading were found to have very little or no evidence or had contradicting evidence.

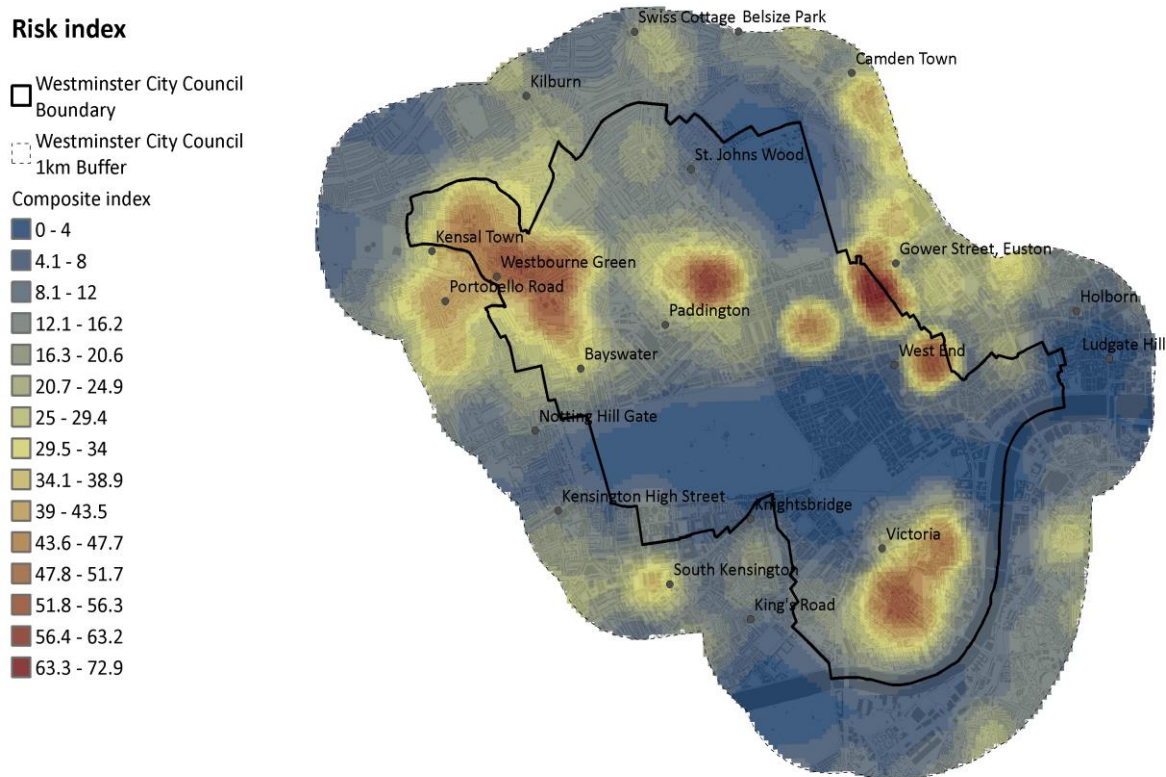
Demographics	Socio-economic	Poor judgement/impairment	Other
Youth	Unemployed	Low educational attainment	Poor mental health
Older people	Low income	Low IQ	Substance abuse/misuse
Women	Deprived areas	Under influence alcohol/drugs	Problem gamblers
Ethnic groups	Financial difficulties/debt	Learning disabilities	
	Homeless	Personality traits	
	Immigrants		
	Prisoners/probation		

5.4 The results from this phase were detailed in a report which was published in July 2015.

5.5. The next phase of the research was to identify where the individuals or groups were located within Manchester and Westminster using national and local data. The intention was to create an index of vulnerability and map the location of this showing the density of the risk of vulnerability. This work was completed in late 2015 and the final report was published on the 9<sup>th</sup> February 2016.

5.6 The results from this phase of the project found that there were four distinct at risk hotspots within Westminster. These areas were the north west/Harrow Road, Paddington and the Edgware Road, The West End and Pimlico. Each

area had different reasons why these areas had a higher proportion of risk within the index. These areas are shown in the composite risk index map below.



Contains Ordnance Survey data © Crown copyright and database right 2015. All rights reserved. Licence number 100045515.

- 5.7 A copy of the case studies for the four areas is attached to this report at Appendix 2.
- 5.8 This research is the first of its kind in the UK and is seen by the Commission and the Local Government Association to be extremely valuable to local authorities in considering the impact of gambling. Other local authorities are currently looking to adopt this approach and to use the results to better inform their decision making and policy development.
- 5.9 This research has been made public via our website at [www.westminster.gov.uk/gambling-research](http://www.westminster.gov.uk/gambling-research). We expect gambling operators to consider the local risks identified within the research reports as part of their local risk assessments.

## 6. Revision to the Council's Statement of Licensing Principles for Gambling

- 6.1 In 2015 Officers began reviewing the Council's Statement of Licensing Principles for Gambling (the Statement) prior to the end of the three year period. During that process it was agreed with the Cabinet Member for Public Protection and Licensing that the review would only make minor amendments to the Statement due to the need to undertake a further review once Gambling



Commission had published their reviewed Guidance to Licensing Authorities and the Council's commissioned research was completed.

- 6.2 The reviewed Statement was published in December 2015 and came into effect on the 31<sup>st</sup> January 2016. This revised Statement had minor amendments and is seen as an interim step prior to the major review that will take place later in 2016.
- 6.3 Officers are currently in the process of revising the Statement following the publication of the Commissions guidance and the area based vulnerability research. The review will see the Statement re written with a policy framework based around the risk based approach brought about by the requirement for operator risk assessments.
- 6.4 The revised Statement will contain a Local Area Profile which will set out the key issues that the Council deems as relevant for gambling operators to consider as part of their risk assessment. The Local Area Profile will contain information based on three key areas associated with two of the Licensing Objectives. These elements are crime and disorder, children and vulnerable people. The Local Area Profile will contain relevant information on crime rates, both generally across the City and also specifically relating to gambling premises, information on specific sites associated with children, such as schools, other educational institutions. In addition to schools and educational institutions we will also include premises associated with children such as outdoor play areas or youth centres. The maps and findings from the Geofutures research will form the body of information on vulnerability.
- 6.5 At present the current Statement is mostly generic in nature, except for the specific gambling premises policies. It is also felt that the level of detail within the current Statement doesn't provide enough detailed information on how the Licensing Authority expects operators to be reasonably consistent with the licensing objectives.
- 6.6 It is the intention of officers to create specific parts within the Statement that only relate to one category of premises licence. These parts will contain the relevant policies for that type of operation as well as setting out the Licensing Authority's views and requirements which is expects the premises licence holders to operate to.
- 6.7 In addition to the specific parts for each category of gambling premises there will also be specific parts within the statement on other permissions (permits, lottery registrations, notices and notifications), gambling support and treatment and compliance and enforcement. It is intended that the revised statement will be used as a tool and considered in more detail by operators than is done for the current Statement.
- 6.8 Officers intend to carryout workshops with industry sectors, responsible authorities and care providers to gather views and comments on some of the proposed changes within the revised Statement. Following those workshops a report will be put before the Cabinet Member for Public Protection and

Licensing which will include the draft revised Statement, the comments received from these workshops and to seek approval to consult on the draft Statement. Subject to this approval officers intend to consult on the draft revised Statement in April.

- 6.9 There is an intention to link the local area profile with the policies within the statement. The Council will set its policies so that there is an expectation on gambling operators who wish to operate or already operate in an area defined as higher risk must specifically assess the risk associated with that area and their premises and identify control measures to reduce the risk on the licensing objectives.

## **7. Financial Implications**

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

## **8. Legal Implications**

- 8.1 The Council, as the Licensing Authority has a requirement under section 349 of the Gambling Act 2005 to prepare and publish a statement of principles for gambling.
- 8.2 Section 349(1) requires the Licensing Authority to prepare and publish a Statement of Principles before each successive period of three years. However, the Licensing Authority can review the Statement of Principles at any time during that period as necessary.
- 8.3 Any person aggrieved by the Council's Statement of Principles may submit a Judicial Review to the administrative court.

## **9. Staffing Implications**

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

## **10. Reason for Decision**

- 10.1 The report is provided for information purposes only.

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

## **Appendices**

- Appendix 1 – Guide to undertaking a local area risk assessment for gambling.  
Appendix 2 – Maps and case studies from Geofutures Phase 2 report: Developing an area-based vulnerability index

## **Background Papers**

- Gambling Act 2005
- Gambling Commission Licence Conditions and Codes of Practice May 2015
- Gambling Commission Guidance to licensing Authorities, 5<sup>th</sup> Edition



City of Westminster

## Guide to undertaking local gambling risk assessments

Gambling Act 2005

February 2016

*This page has been left blank intentionally*

## Contents

	Page
<b>1. Introduction</b>	<b>5</b>
<b>2. Background</b>	<b>7</b>
<b>3. Risk assessment triggers</b>	<b>10</b>
3.3 New premises	10
3.4 Significant changes in local circumstances	10
3.9 Significant changes to the premises	11
3.14 Variation of the premises licence	12
3.17 Regular review of risk assessments	13
<b>4. Local risk and control measures</b>	<b>14</b>
4.6 Local area risks	14
4.8 Gambling operational risks	15
4.12 Premises design risks	15
4.14 Interior design risks	16
4.16 Exterior design risks	16
4.17 Control measures	16
<b>5. Undertaking a local risk assessment</b>	<b>18</b>
5.3 Who should undertake the assessment	18
5.4 Step 1: The local area	18
5.6 Step 2: The gambling operation and physical design	19
5.7 Step 3: Control measures	19
5.9 Step 4: Action plan	19
5.9 Completed assessments	19
Annex A Westminster City Council's Local Gambling Risk Assessment Template	20

## 1. Introduction

- 1.1 Westminster City Council (the Council) has developed this document as a guide which gambling operators can use when undertaking and preparing their local (premises) risk assessments. This guide is intended for all gambling operators and has not been designed with a specific gambling sector in mind. Following initial consultation on this document the Council has worked with Coral Racing Limited to enhance the risk assessment form. Corals staff has also assisted Council Officers by providing a gambling operators point of view to this new process and the development of this guide.
- 1.2 The Gambling Commission (the Commission) introduced new provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- 1.3 The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that Westminster has been doing for a number of years and continues to champion. We have found that a risk-based approach to regulation is beneficial for businesses and the authority to prioritise their actions in response to the identified risk.
- 1.4 The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 1.5 This guide provides a framework for the local risk assessment process that will provide the necessary frame work to comply with the LCCP requirements. Local risk assessments will be beneficial to the Council as Licensing Authority under the Gambling Act 2005 (the Act), as well as responsible authorities and interested parties when considering new and variation applications. A well thought out and complete risk assessment will benefit gambling operators in the process of apply for new and varying existing premises by reducing the need for additional information or possible the imposition of conditions.
- 1.6 Gambling operators will be required to undertake a risk assessment for all of their existing premises by 6<sup>th</sup> April 2016. Following that date operators must also undertake a review of those assessments when certain triggers are met. These triggers, along with the Council's views on what may instigate either a

new assessment or the review of an existing one are detailed within this guidance document.

- 1.7 The Council considers that these local risk assessments are a key component of the overall assessment and management of the local risks. The Council will assist gambling operators in this process by providing specific information on its concerns surrounding gambling within the City and the impact that premises can have on the licensing objectives. This will be contained within its Statement of Licensing Principles.
- 1.8 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.



## **2. Background**

- 2.1 Westminster City Council is a Licensing Authority under the Act. The Licensing Authority is responsible for considering and determining applications for premises licences which offer gambling facilities within Westminster. The Licensing Authority also has a role in gambling regulation by ensuring compliance with the Act.
- 2.2 The Act contains three licensing objectives which guide the way that the Licensing Authority performs its functions and the way that gambling operators carry on their activities. They are:
  - (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
  - (b) ensuring that gambling is conducted in a fair and open way.
  - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.3 The Act places a legal duty on the Licensing Authority to aim to permit gambling in so far as it thinks it reasonably consistent with the licensing objectives. The effect of this duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers where appropriate, for example to attach conditions to licences to moderate their impact on the licensing objectives, rather than by setting out to prevent gambling altogether.
- 2.4 The Licensing Authority will set out how it intends to carry out its functions under the Act in its Statement of Licensing Principles, also known as Licensing Policy. This statement is kept under review and is updated every three years (as a minimum).
- 2.5 The Commission is responsible for issuing operating licences to gambling operators who are deemed suitable and competent to provide facilities for gambling. As a requirement of these operating licences, gambling operators must ensure that they comply with and meet the requirements of the LCCP.
- 2.6 In February 2015, following substantial consultation with relevant stakeholders the Commission introduced a new social responsibility code provision making it a requirement for certain gambling operators to assess the local risks to the licensing objectives posed by each of their premises based gambling operations. The Commission also introduced an ordinary code provision relating to sharing local risk assessments. The relevant provisions of the code state:

**Social responsibility code provision 10.1.1**

**Assessing local risk**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.**

***This provision comes into force on 6 April 2016***

- 1** Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
- 2** Licensees must review (and update as necessary) their local risk assessments:
  - a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
  - b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - c** when applying for a variation of a premises licence; and
  - d** in any case, undertake a local risk assessment when applying for a new premises licence.

**Ordinary code provision 10.1.2**

**Sharing local risk assessments**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences**

***This provision comes into force on 6 April 2016***

- 1** Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

2.7 These code provisions come into effect on 6<sup>th</sup> April 2016. As a result, all premises that provide facilities for gambling within Westminster must be assessed to identify the local risks posed by the provision of gambling facilities in their respective locations. This guidance will assist operators in complying with these code provisions.

2.8 Although gambling is a legal entertainment activity it can, in some locations have a negative impact on individuals and the wider community. The Council has been very active in trying to understand how gambling can affect its residents and visitors. The Council commissioned Geofutures in 2015 to undertake research to identify individuals who live in the local area who are

potentially vulnerable to gambling-related harm. The results of this research were published in two reports:

2.8.1 Exploring area-based vulnerability to gambling-related harm: Who is vulnerable? Findings from a quick scoping review – 13<sup>th</sup> July 2015

2.8.2 Exploring area-based vulnerability to gambling-related harm: Developing the gambling related harm risk index – 9<sup>th</sup> February 2016

2.9 Geofutures have provided a map case tool which will enable gambling operators and other stake holders to review the findings from the research relating to the locations where their premises are located. Both of the reports listed above are available via the Council's website at [www.westminster.gov.uk/gambling-research](http://www.westminster.gov.uk/gambling-research).

### **3. Risk assessment triggers**

- 3.1 The local risk assessment code provisions provide a number of triggers for when a new assessment is required and for when an existing one requires review. The Gambling Commission has not provided any further detail on these triggers and it will be ultimately down to gambling operators, the Commission and the Council to assess when these triggers have been met.
- 3.2 In order to assist gambling operators this section sets out the Licensing Authority's views on what these triggers may be and when operators should provide a copy of their assessments to the Licensing Authority.

#### **New premises**

- 3.3 If an operator intends to apply for a new premises licence under Part 8 of the Act then a local risk assessment must be carried out as required by the Commissions LCCP social responsibility code provision 10.1.1. That assessment should be based on how the premises are proposed to operate at the premises location and must take into account the local area. The completed assessment should be provided with the application for a new premises licence upon submission to the Licensing Authority.

#### **Significant changes in local circumstances**

- 3.4 Operators are required to review their local risk assessment if significant changes in local circumstances occur. Changes to local circumstances happen frequently and can be either temporary or permanent depending on the change, how long that change will remain in place and how it affects the local area. However, the requirement for review of the risk assessment is only applicable when that change is significant.
- 3.5 The review of the premises risk assessment may simply mean that after review no action is necessary as the measures and systems already in place will mitigate any risk associated with that significant change. In this case gambling operators may record that a review has taken place, why it had occurred and that no action was necessary. This would enable the gambling operator to maintain an appropriate audit trail so as to demonstrate that action had been taken.
- 3.6 However, on occasions the significant change in local circumstances may require a need to update and amend the existing risk assessment. In those cases gambling operators may wish to ensure that their assessments are updated adequately and that any relevant control measures are introduced correctly.
- 3.7 As the Gambling Commission has not set out what a significant change in local circumstances it will be the gambling operator's responsibility to identify these changes and take the appropriate action in reviewing their risk assessments. The Council, in an attempt to assist gambling operators has

produced the following lists of examples that may be considered to be significant changes in local circumstances:

- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Statement of Licensing Principles.
- Any new pay day loan or pawn brokers open in the local area
- Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority.
- Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area).

3.8 The list above is not an exhaustive list of examples of what could be considered as significant changes in local circumstances. The Council will provide information to gambling operators when it feels a significant change has occurred in the local area to enable them to take any necessary steps in reviewing their risk assessments. The Council may inform gambling operators when it feels that a significant change has occurred in the area. The Council may also include any specific concerns that it feels may be considered as part of any review of the local area risk assessment for that premises. The notification of any significant changes from the Council should be a prompt to gambling operators to consider carrying out a review of their local risk assessments and having regard to any specific concerns raised by the Council.

### **Significant changes to the premises**

3.9 From time to time operators will undertake a refresh of the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

- 3.10 It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes do require a review of the risk assessments for that premises gambling operators should ensure that they have a system in place to record and action any measures identified in that review.
- 3.11 The gambling operator will be responsible for identifying when a significant change to the premises has occurred. In order to assist gambling operators the Council has provided the following list of examples of what could be classified as a significant change to the premises (some of which may also require a variation to the existing premises licence).
- Any building work or premises refit where gambling facilities are relocated within the premises.
  - The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
  - Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
  - The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
  - New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
  - The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol or to provide sexual entertainment on the premises.
- 3.12 As with the examples of significant changes in local circumstances set out paragraph 3.7, the list above is not an exhaustive list of significant changes to premises.

- 3.13 The Council will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

#### **Variation of the premises licence**

- 3.14 Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.
- 3.15 The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Council may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the Council requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.
- 3.16 If an operator wishes to vary a converted casino premises licence from one premises to another then the gambling operator should consider producing a new risk assessment for that premises. It is advisable that a copy of that assessment is submitted to the Council with the application form.

#### **Regular review of risk assessment**

- 3.17 As a matter of best practice the Council recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.
- 3.18 It will be up to the gambling operator as to the frequency of these reviews but it is recommended that no more than three years should pass before these assessments are reviewed. Operators may wish to synchronise their reviews of the local risk assessments with the publication of the Council's Statement of Licensing Principles for Gambling. This would enable gambling operators to consider the Local Area Profile, which has been published in the Council's Statement of Licensing Principles for Gambling.

## **4. Local risks and control measures**

- 4.1. There are two specific parts to the risk assessment process, the assessment of the local risks and the determination of appropriate mitigation to reduce those risks.
- 4.2 The risks that operators must identify relate to the potential impact a gambling premises and its operation may have on the licensing objectives. Gambling operator should identify and list all of the local risks within the assessment that they have identified. The level of such risks can range from being low to very high depending on the potential impact that the gambling operator has assessed it to have on the licensing objectives. The level of any given risk will have a direct impact on the type and extent of the control measures that the gambling operators deems as being necessary to mitigate such risk.
- 4.3 This process is not new to gambling operators as they are already undertaking elements of this assessment, albeit in a far less formalised way. Operators will already be assessing locations when looking for new sites or when reviewing the performance of their premises. The design of premises is also assessed to ensure that they will meet the needs of the gambling operation, will provide protection for staff and customers; and will have facilities for recording crime. Operators will also have implemented policies and procedures for the operation of premises in line with statutory and other regulatory requirements placed upon them by the Commission and other agencies.
- 4.4 Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.
- 4.5 This local risk assessment process, although similar requires a much broader range of considerations when identifying local risk. The requirement of the Commissions LCCP social responsibility code provision 10.1.1 is that gambling operators consider the local area in which the premises are situated and the impact that the premises operation may have on the licensing objectives.

### **Local area risks**

- 4.6 There are a number of factors relating to the local area that operators may consider which is independent of who the operator believes is their target market. It will be for the gambling operator to identify these risks. However, there may be occasions that the Commission or the Council will provide information on what they perceive as being a local risk. The Council aims to set out some of these local risks as part of its Local Area Profile within its Statement of Licensing Principles for Gambling.



- 4.7 The local area will be different depending on the premises and the size of its operation. For example a casino may have a wider catchment area than a neighbourhood betting shop as the casino attracts customers from further afield.

### **Gambling operational risks**

- 4.8 The gambling operation relates to how the premises will be or is run. This will include the operator's policies and procedures which have been put in place to meet the requirements of the business, the Act and/or specific code provisions within the LCCP.
- 4.9 Gambling operators should identify operational risks in the local area to the licensing objectives and then consider whether there are control measures in excess of those already in place that would mitigate the risk. For example if there is a known illegal drug use in the local area the gambling operator may consider using control measures such as maglocks on the toilet doors or change the design to the toilet to deter people from using it for illegal drug use.
- 4.10 It is likely that the identification of risks associated with this element of the assessment will be very similar for all premises with slight variations depending on any specific factors that relate to the premises or the local area.
- 4.11 The control measures that operators will put in place to mitigate any risk associated with the gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

### **Premises design risks**

- 4.12 The design of the premises is an extremely important factor when considering local risks. For example, an Adult Gaming Centre which is located within an area which has a high number of children and young people present throughout the day may identify that the doors on either side of the premises are being used by local children as a short cut to access the adjacent street. The appropriate mitigation in this case may be that the gambling operator closes off one of the doors to prevent it being used as a short cut.
- 4.13 As part of the design process, the layout of the premises is a major consideration as poorly conceived design may create significant risks to one or more of the licensing objectives. Gambling operators are experienced in premises design and often these considerations are made during the planning phase. It is advisable that gambling operators ensure that there is a process in place to record these key decisions at an early stage of the planning process for the premises design so that this can be included in their risk assessment.

### **Interior design risks**

- 4.14 The internal design and layout will reflect the premises operation and the type of gambling facilities that it offers. For some premises the design will be subject to certain limitations due to mandatory conditions on the gambling premises licence, such as the distance between gaming tables and other gambling facilities in casinos, and restrictions on the location of ATM's.
- 4.15 Operators should assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

### **Exterior design risks**

- 4.16 The exterior of premises will be a major advertisement for the gambling operator. However, the design should be assessed based on the associated risk. Operators may identify a risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

### **Control measures**

- 4.17 Depending on the nature of the risk factors, the control measures identified to mitigate the perceived risk may be a combination of systems, design and physical measure. Control measures that relate to systems may be measures that have been put in place through policies and procedures. These can either be systems that apply to all of the operator's premises or systems that have been developed specifically for particular premises to deal with a specific local risk factor. System control measures may include staff training, security policies and procedures. They may also relate to having security personnel on entrances, implementing membership criteria and/or providing support to local vulnerable groups through financial or other means.
- 4.18 Design control measures are measures that are built into the design of the premises. These can include the location of gambling facilities and the design and location of cashier counters within the premises, and the exterior design of premises. For example, a control measure for the interior of the premises could involve moving a cashier counter from the rear of the premises to the front of the shop next to the main entrance. An external design control measure may involve the exterior design being tailored to address local risks,

for example, more open window displays to enable staff can see out of the premises or a design to avoid attracting children to the premises.

- 4.19 The final control measures relate to specific physical measure that will address an identified risk factor. These physical control measures may, for example, include alarms, CCTV cameras, doors, magnetic locks, time locks on safes, spit kits, window shutters, fogging systems, UV lights in toilets.
- 4.20 As aforesaid, the control measures identified to mitigate a perceived risk may involve a combination of systems, design and physical measures. For example to address the risk factors relating to children gaining access to an over 18 restricted gambling premises, the operator may identify the following control measures:

Systems: PASS card or age verification policies, challenge 21 scheme, staff training and door staff.

Design: Exterior design which will not attract children into the premises, the entrance layout will enable staff and security to watch those entering the premises and challenge them on the grounds of age.

Physical: Magnetic door locks and ID scans.

## **5. Undertaking a local risk assessment**

- 5.1 A local risk assessment of gambling premises should be carried out through a step-by-step approach. Gambling operators may first assess the local area and identify the relevant risk factors, then assess the gambling operation, and finally assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented.
- 5.2 In order to assist gambling operators in this process the Council has developed a local risk assessment form that encompasses the step-by-step approach to the assessment as set out above (see Annex A). The form also enables the assessor to identify actions such as the installation or production of control measures, the individual made responsible for carrying out those actions, and to record when those actions were completed. This form is not mandatory and gambling operators can develop their own assessment forms to suit their own business.

### **Who should undertake the assessment**

- 5.3 It will be the responsibility of the gambling operator to assign the assessor for assessing the local risks for their premises. The person assigned as the assessor must be competent to undertake this role as failure properly to carry out this function could result in a breach of the provisions of the LCCP. The assessor must understand how the premises operate or will operate, its design, and where it is located. The assessor will need to understand the local area and can use staff or area managers to assist in gaining an understanding of that local area.

### **Step 1: The local area**

- 5.4 Operators should start by identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important.
- 5.5 To assist in assessing the local area the Council will be revising its Statement of Licensing Principles for Gambling to include a Local Area Profile. The Local Area Profile will set out the demographic profile of areas of the City, and the specific concerns and risks that the Licensing Authority has identified in relation to gambling in those areas. Until the Council has gone through the process of revising its Statement of Licensing Principles for Gambling, gambling operators are encouraged to review the Council's gambling related harm index which is available via [www.westminster.gov.uk/gambling-research](http://www.westminster.gov.uk/gambling-research)

## **Step 2: Gambling operation and physical design**

- 5.6 In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk.
- 5.7 The physical design of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted.

## **Step 3: Control measures**

- 5.8 Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

## **Step 4: Action Plan**

- 5.9 Once the assessment has been carried out an action plan should be completed so that any identified actions are documented and a deadline for completing the required piece of work is set and agreed.

## **Completed assessment**

- 5.10 The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime (see part 3 above).



## City of Westminster

# Local Gambling Risk Assessment Template

### Notes for completing this form:

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

For further guidance on completing this assessment of when this assessment must be reviewed please refer to Westminster City Council's Undertaking local gambling risk assessments guide.

Who should complete this assessment: The person assigned as the assessor must be competent to undertake this role as failure properly to carry out this function could result in a breach of the provisions of the LCCP. The assessor must understand how the premises operate or will operate, its design, and where it is located.

Risks: Area of consideration that may impact on one or more of the licensing objectives

Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises or in the local area.

Licensing Objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

Frequency of Review:

Operators will need to specify the time period in which a review of this risk assessment should be carried out. The frequency will be up to the gambling operator but it shouldn't be longer than 36 months.

## Local Gambling Risk Assessment Template

Premises number or licence number:	
Region (if applicable):	
Area (if applicable):	
Premises Address:	
Name of Assessor:	
Colleagues Present:	
Date of assessment:	
Review date:	

## Local Area

Licensing Objective		Risks	Existing Control Measures	Further Controls Recommended
1.1	Protecting children and other vulnerable persons from being harmed or exploited by gambling			
1.2	Preventing			



	<b>Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime</b>			
<b>1.3</b>	<b>Ensuring that gambling is</b>			

	<b>conducted in a fair and open way</b>			
--	---	--	--	--

Licensing Objective	Risks	Existing Control Measures	Further Controls Recommended
<p><b>2.1</b> Protecting children and other vulnerable persons from being harmed or exploited by gambling</p>			
<p><b>2.2</b> Preventing Gambling from being a source of</p>			

	<b>crime or disorder, being associated with crime or disorder or being used to support crime</b>			
<b>2.3</b>	<b>Ensuring that gambling is conducted in a fair</b>			

	and open way			
--	--------------	--	--	--

Local Area (insert number)	Gambling Operation and Physical Design (insert number)	Question	Action Required	By Whom (name)	By When (date)	Date Completed

<b>Assessment Review</b>			
Frequency of Review (enter time period e.g. 12 months)		Date Review Due	

**Completed Risk Assessment brought to the attention of:**

<b>Name (person responsible for premises and/or implementing control measures)</b>	<b>Position</b>	<b>Signature</b>	<b>Date the this assessment was brought to this persons attention</b>



## City of Westminster

Licensing Team  
4<sup>th</sup> Floor East  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

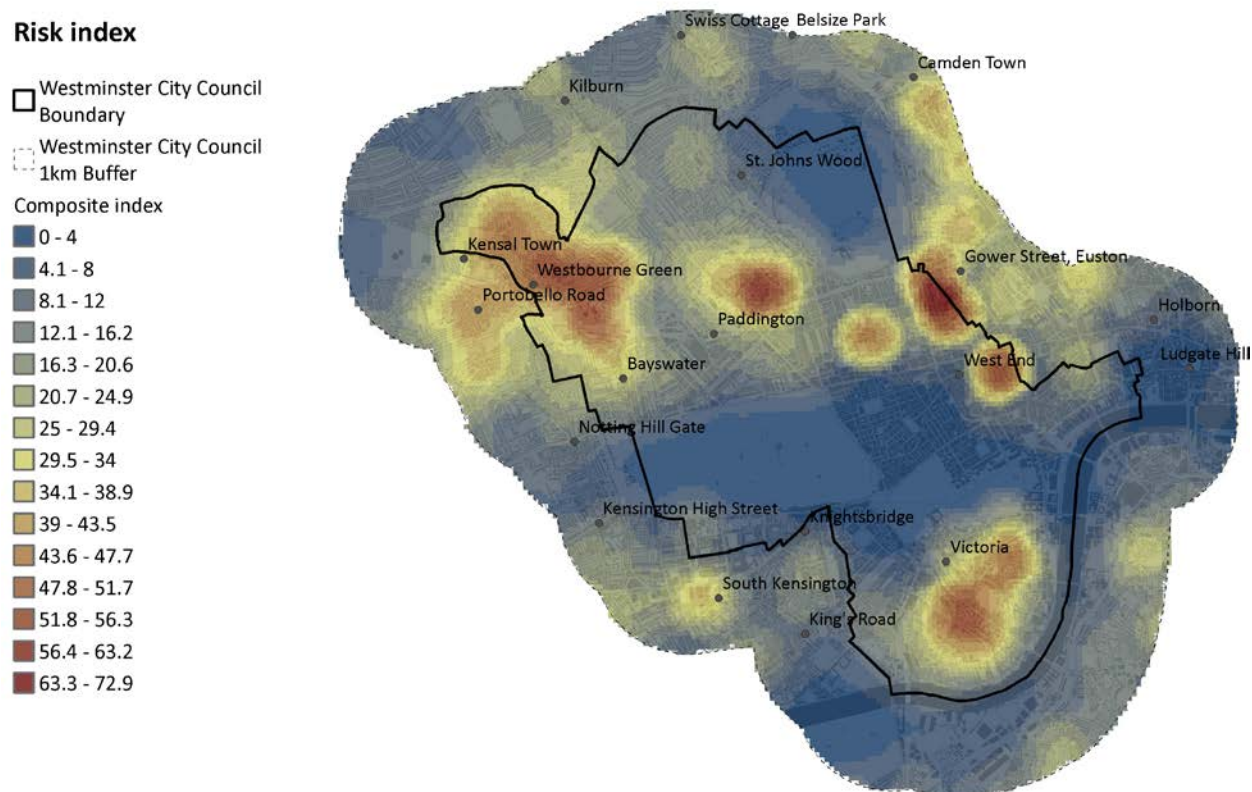
Tel: 020 7641 6500  
Email: [licensing@westminster.gov.uk](mailto:licensing@westminster.gov.uk)

Web: [www.westminster.gov.uk/gambling](http://www.westminster.gov.uk/gambling)



# Westminster

Figure 19: map of composite risk index for Westminster



Contains Ordnance Survey data © Crown copyright and database right 2015. All rights reserved. Licence number 100045515.

Figure 19 shows the composite risk index for Westminster. Risk scores vary between 0 and 72.9.<sup>18</sup> There are four main areas of greater risk to gambling-related harm identified. These are:

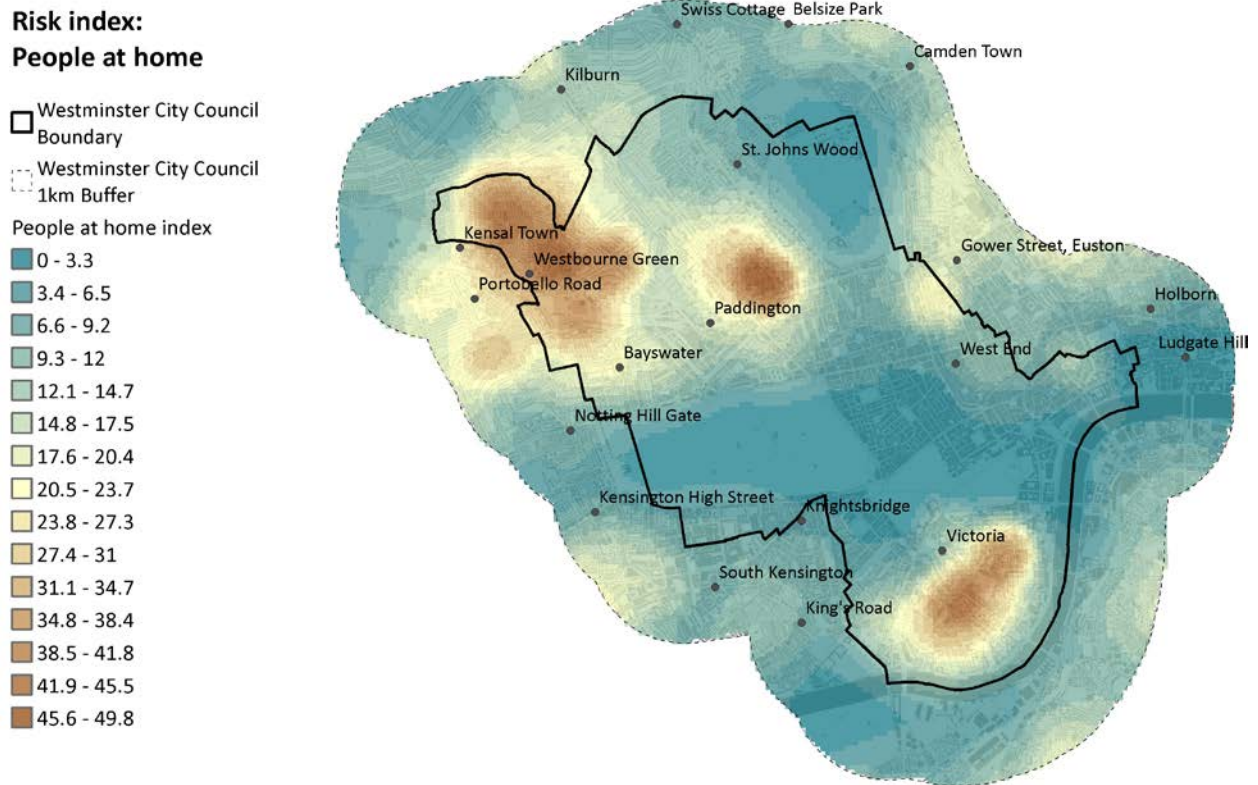
- the area around Westbourne Green towards Kensal Town in the north west of Westminster.
- the area around the Edgware Road in the north central part of Westminster,
- the area around Pimlico and Victoria to the south of Westminster, and
- the West End and Soho.

Looking at Figures 20 and 21, we can see that there are different drivers of risk in these areas. For three of these areas (the north west, Paddington and Edgware and Pimlico) the 'at home' risk index shows higher values, suggesting that the risk in these areas is driven more by the

<sup>18</sup> As previously, the breaks within the scales shown in Figure 20 are based on the breaks in the distribution of the index data.

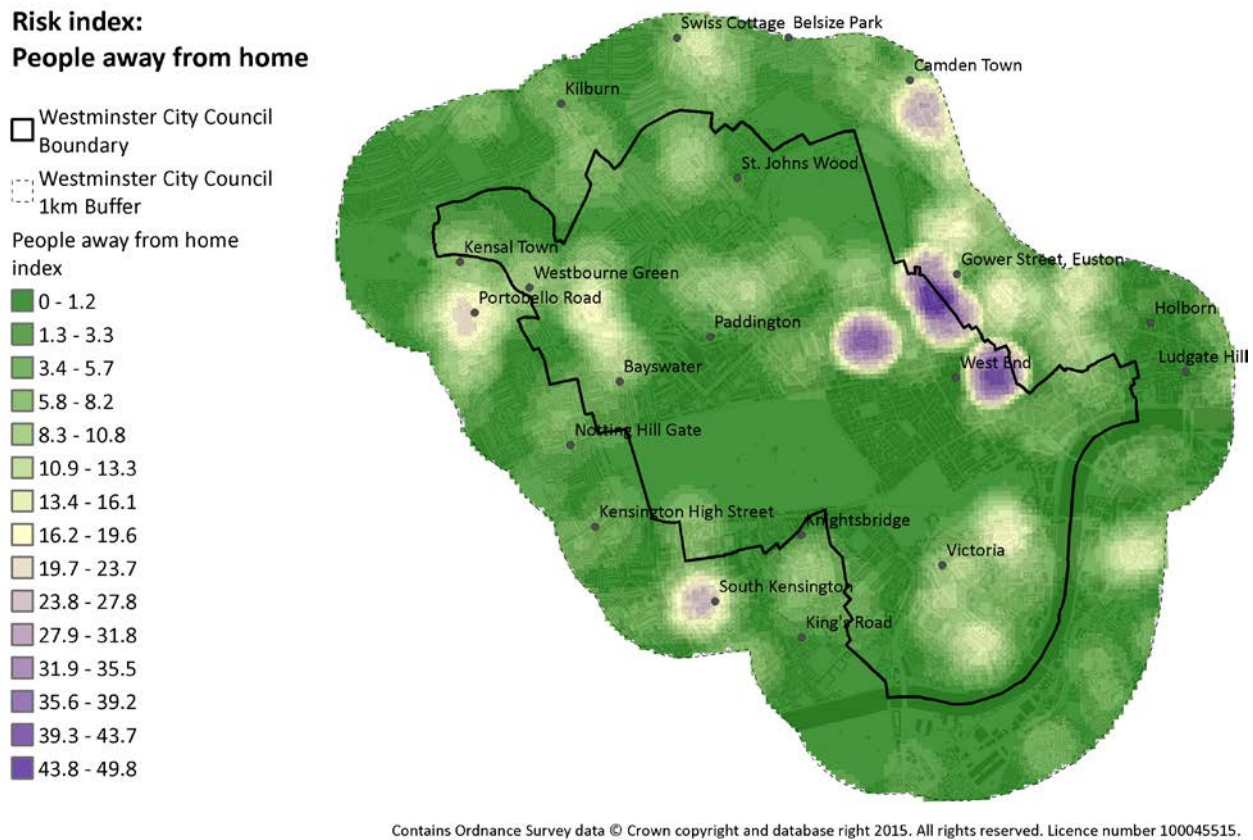
local resident population. For the West End, risk is driven much more by the ‘away from home’ community. Of course, in each area there is some risk associated with both the ‘at home’ and ‘away from home’ populations. Each of these four areas are discussed in turn to explore the specific drivers of risk in each location.

Figure 20: map of ‘at home’ risk index for Westminster



Contains Ordnance Survey data © Crown copyright and database right 2015. All rights reserved. Licence number 100045515.

Figure 21: map of 'away from home' risk index for Westminster



### Case study 1 – the north west/Harrow Road

This area extends north from Westbourne Green to West Kilburn to the north west boundary of Westminster. It therefore covers a broad area. Looking at this area, we can see that it has the one of the highest levels of risk associated with the 'at home' resident population. There are high numbers of unemployed people (see Figure 22) and high numbers of people from minority ethnic groups (see Figure 23). In fact, many output areas in this region have more than 100 residents from minority ethnic groups and more than 20 unemployed residents per output area. Relative to other areas in Westminster, the north west area has somewhat greater numbers of young people aged 10-24 (see Figure 25) though it does not have quite so many educational establishments as other parts of Westminster. Finally, for the resident population, there appear to be high numbers of people recorded on the GP register with schizophrenia, bipolar affective disorder and other psychoses, and other patients on lithium therapy or with depression. This is especially so around the Harrow Road area, where many of the GPs (where data was available) had over 190 patients with these diagnoses (see Figure 24). Taken together

this builds a picture of multiple risk factors for gambling-related harm among the residents in this area.

Looking at the ‘away from home’ population, of the eight treatment and support services for substance abuse/misuse (not including needle exchanges) in Westminster, three are in the north west area, as is one of only two food banks in Westminster. There was also a high concentration of supported housing services in this area (12 facilities), showing higher potential risk among people who use these services in this area.

The risk profile in this area is therefore driven both by the characteristics of the resident population and by the facilities and services that exist in this area also.

**Figure 22: Number of residents unemployed (per output area) in north west Westminster**



Figure 23: Number of residents from minority ethnic groups (per output area) in north west Westminster

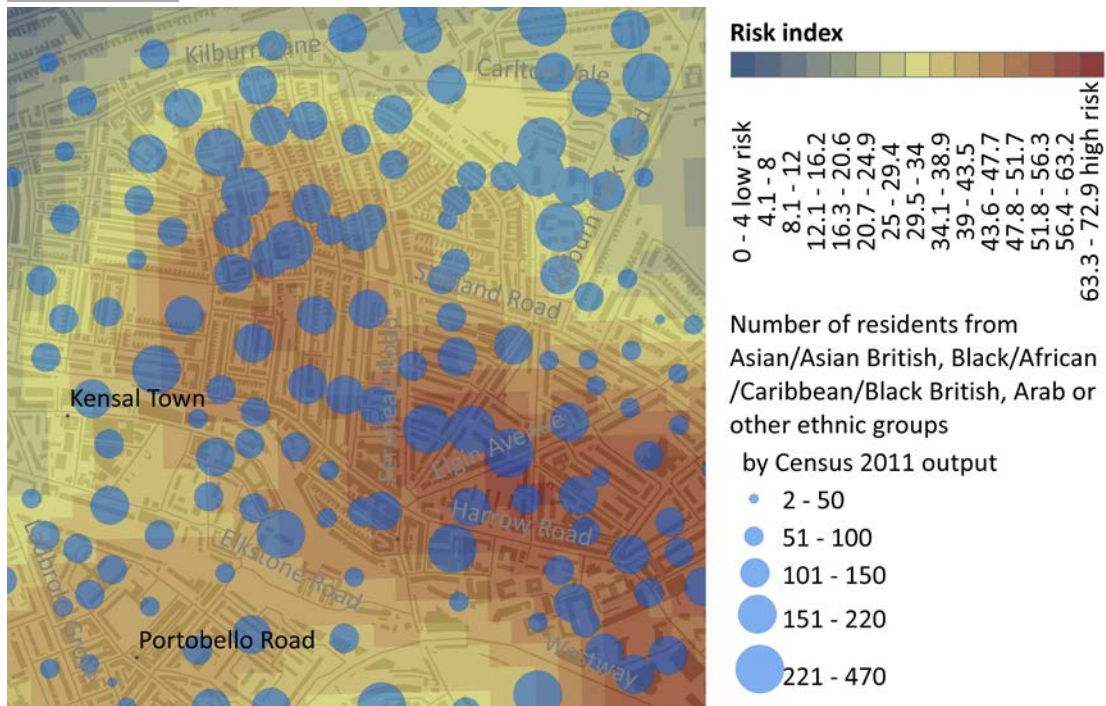


Figure 24: Number of GP patients with certain mental health conditions in north west Westminster

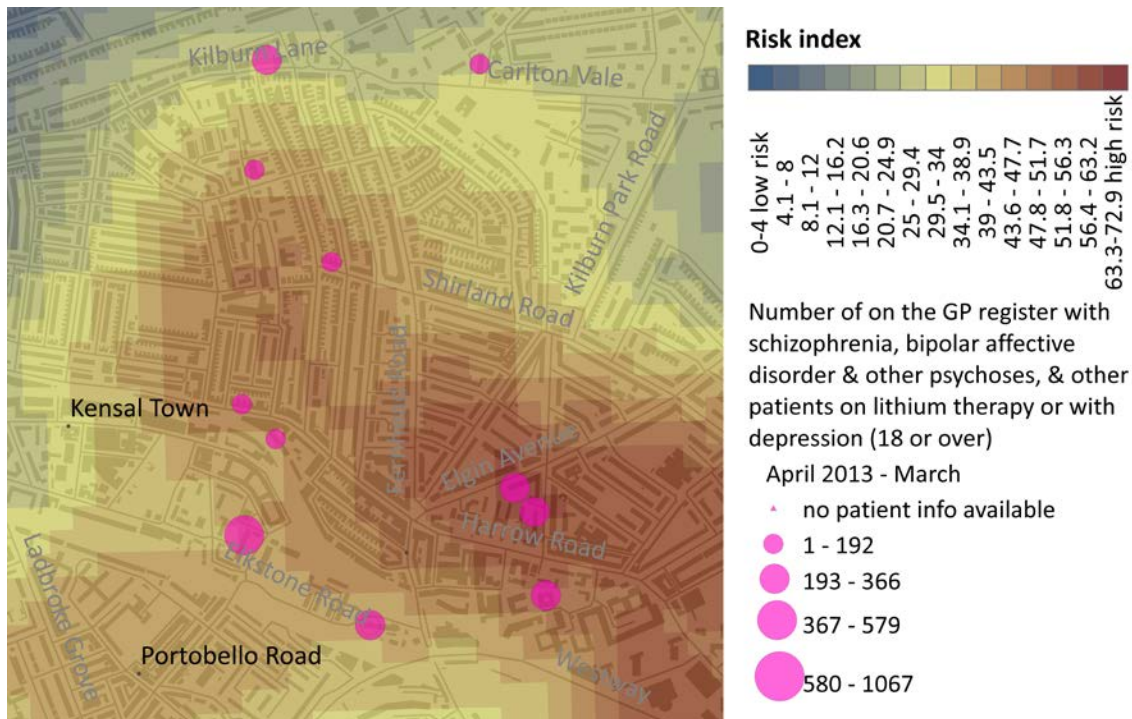
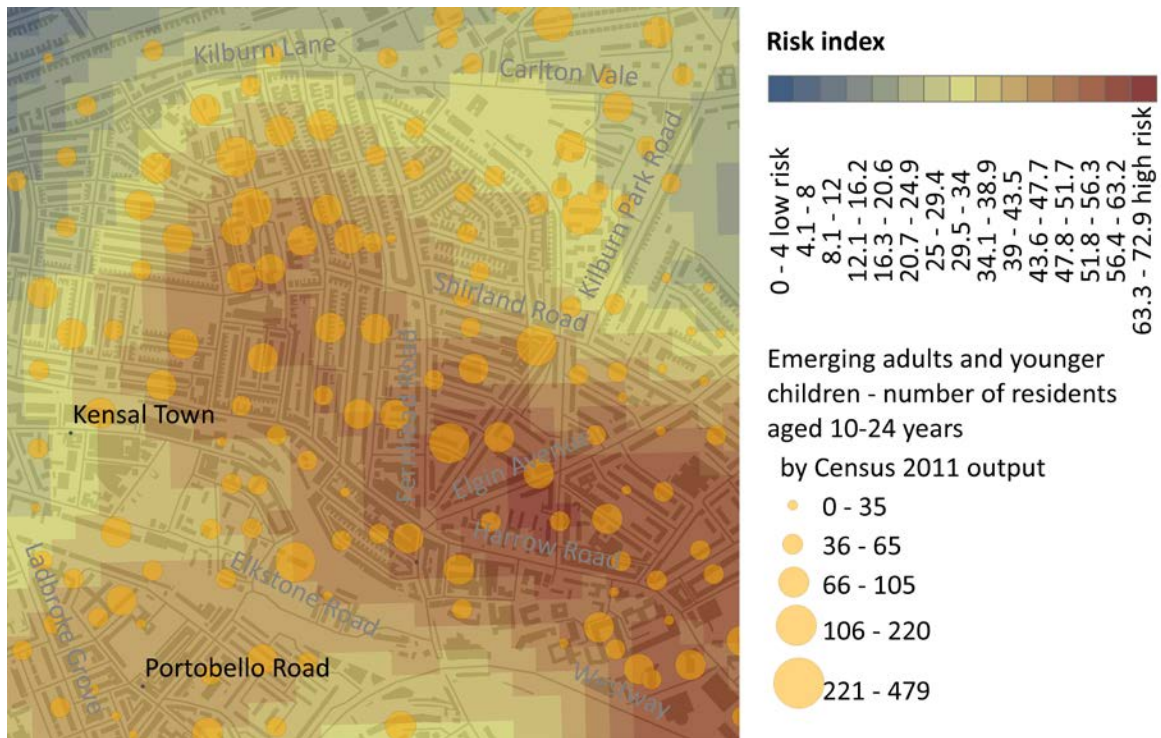


Figure 25: Number of residents aged 10-24 (per output area) in north west Westminster



## Case study 2 – Paddington and the Edgware Road

Looking at the Paddington/Edgware Road area, the first pattern to note is that the area of risk is concentrated in a smaller geographical space. Highest risk is focused in the area that extends north between Edgware Road and Baker Street towards Lisson Grove.

Compared with the first case study, the risk in this area is driven primarily by four key factors: unemployment, ethnicity, youth and homelessness. Figure 26 shows that there are a high number of residents who are economically inactive in this area, typically more than 16 people per output area. This area also hosts only one of two job centres for Westminster. This is also an ethnically diverse area with more than 100 people per output area being from a minority ethnic groups (see Figure 27). Looking at youth, there are slightly higher numbers of young people (aged 10-24) resident in the area but there are five educational establishments within a small geographic space (see Figure 28). Five of the forty nine supported housing facilities are also in this small geographic area. Data for mental health diagnosis for GPs in this area is sparser, though the three GP surgeries mapped suggest higher numbers of diagnosis than other surgeries.

Unlike the north west, there are fewer facilities in this area which are likely to draw vulnerable people to these places. There are no treatment centres or drug facilities (with the exception of one pharmacy offering a needle exchange), there are no foodbanks and just one pay day loan shop on the edge of the area.

Therefore, it seems that the key factors driving risk in this area relate to unemployment, ethnic make-up, young people and homelessness.

Figure 26: Number of residents unemployed (per output area) in Paddington area

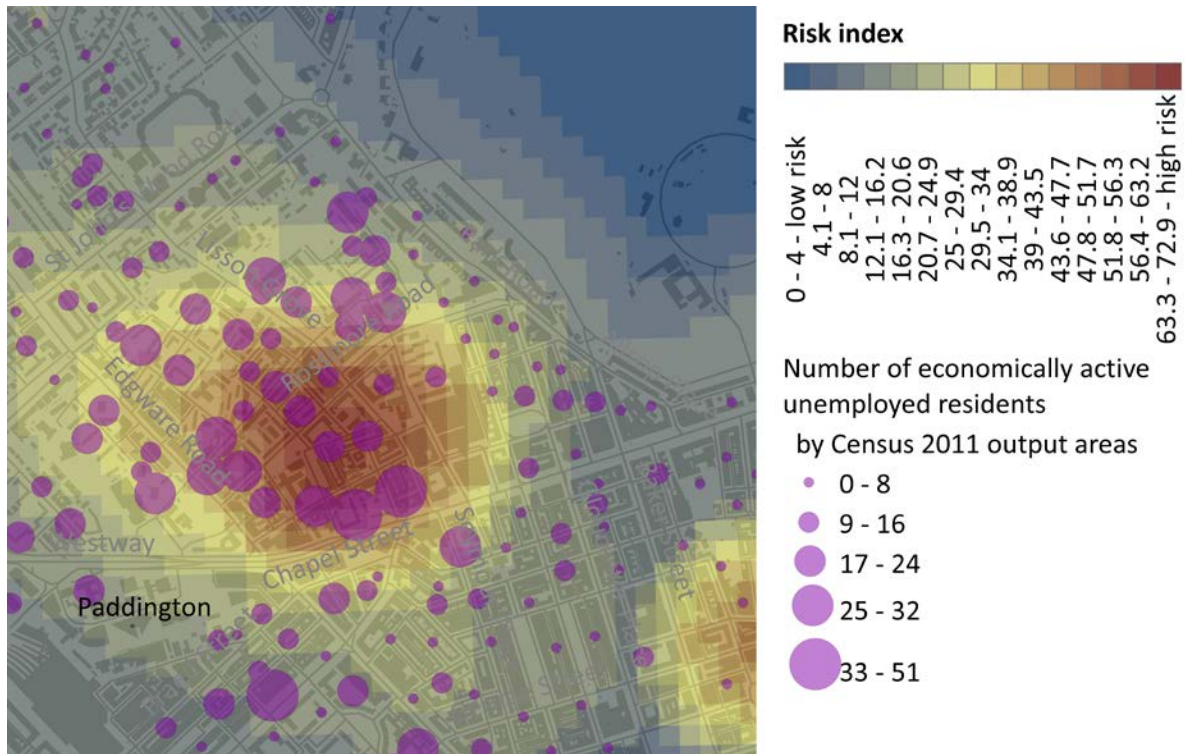
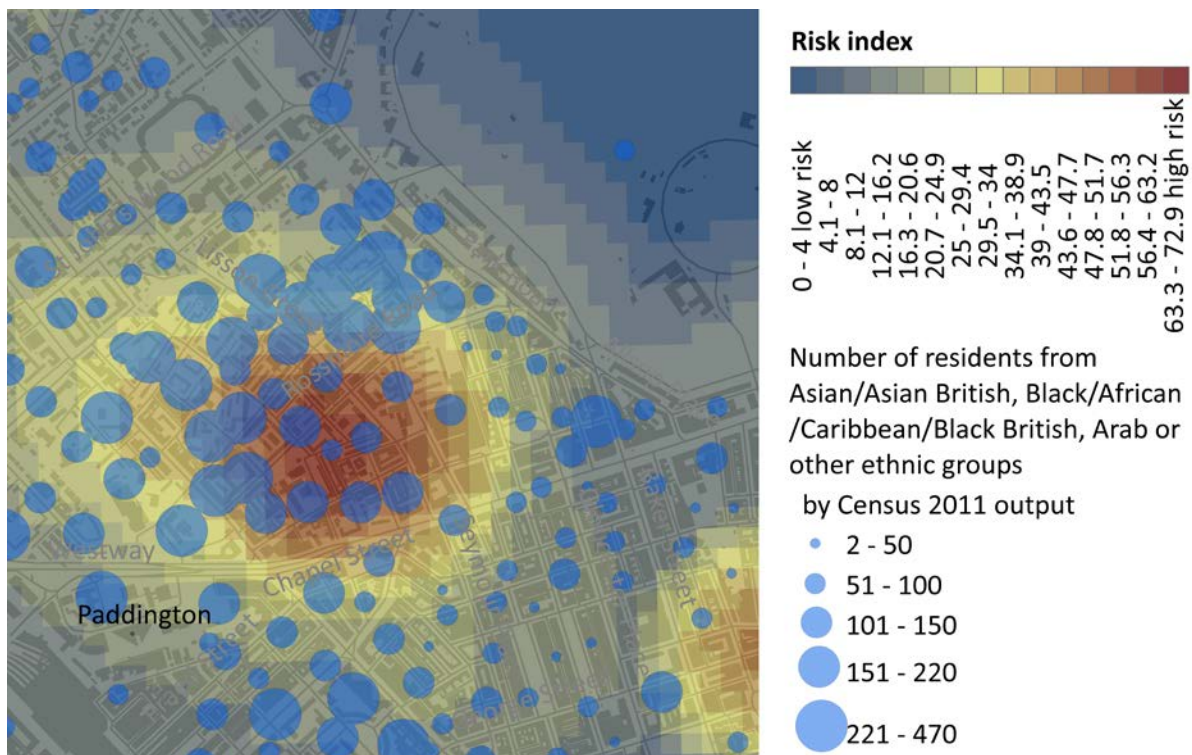


Figure 27: Number of residents from minority ethnic groups (per output area) in Paddington area





Interestingly, Soho did not display noticeably higher numbers of residents from minority ethnic groups, despite this being the location of Chinatown. Whilst the residents will be represented, our models do not include facilities like Chinatown to which Chinese and other minority ethnic workers will gravitate. In this respect, the model around Soho is likely to be a conservative estimate of risk.

Figure 29: Location of GamCare treatment centres or GA meeting places in West End area

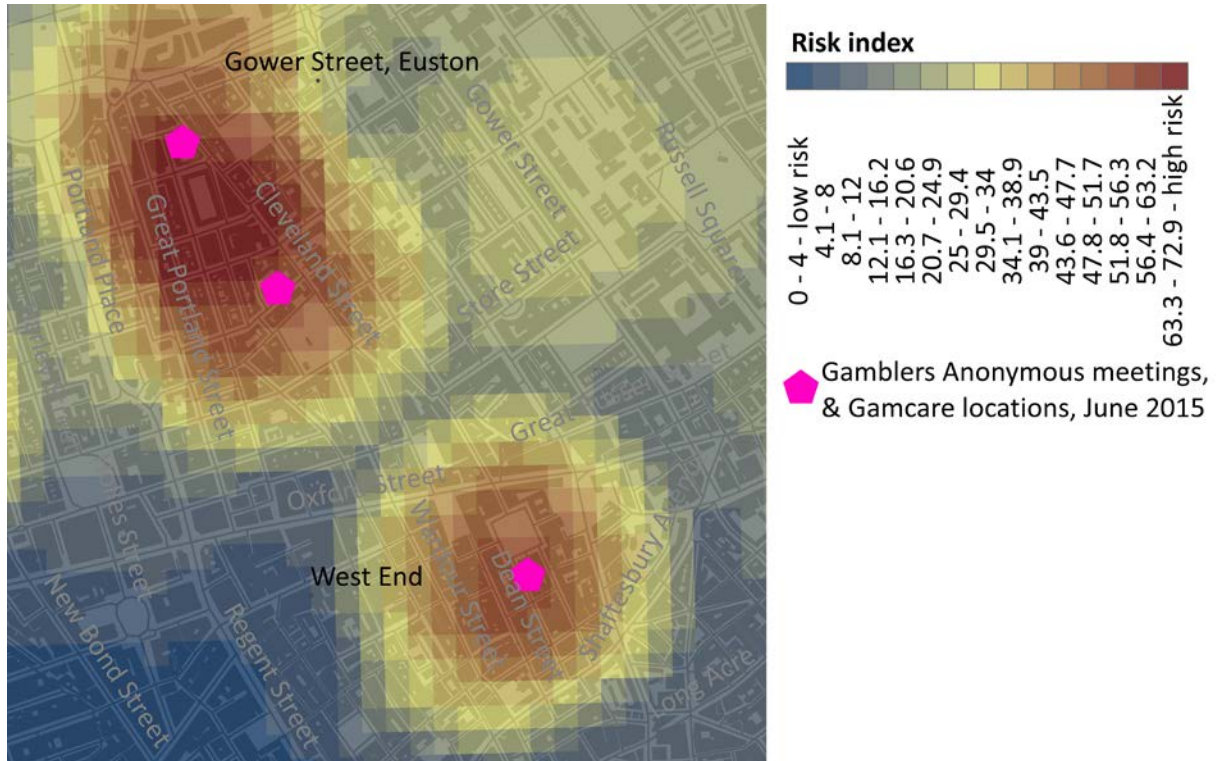


Figure 30: Number of residents unemployed (per output area) in West End area

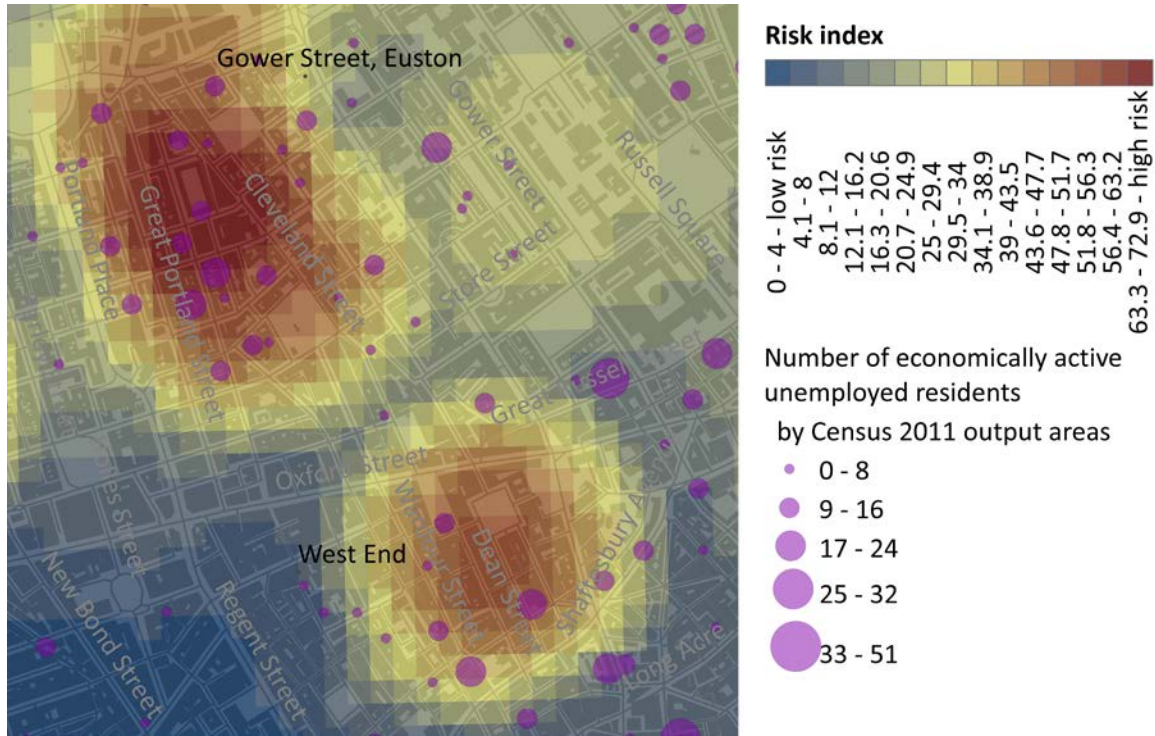
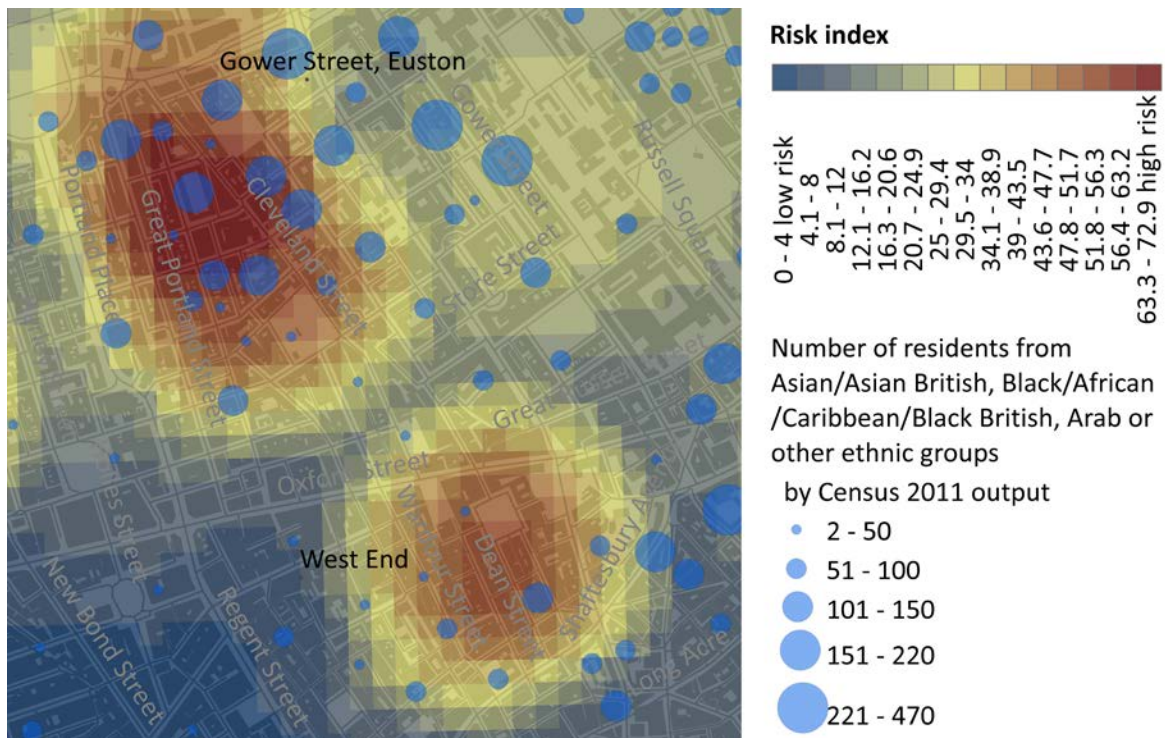


Figure 31: Number of residents from minority ethnic groups (per output area) in West End area



## Case study 4 – Pimlico

The final case study area is the area to the south of Victoria and Victoria Road, around Pimlico. Risk in this area is driven by a mix of factors relating to the residential population and the ‘away from home’ population.

Looking at the resident population profile first, there are some areas in Pimlico which have greater numbers of unemployed people, though these numbers are not as high as those seen in the north west or Paddington (see Figure 32). Unlike the north west and Paddington, this area is less ethnically diverse with fewer residents from minority ethnic groups than the other case studies (see Figure 33). The number of young people in the area was also smaller than in the north west and Paddington regions. What was different, however, was that Pimlico had comparatively high numbers of residents with a mental health diagnosis on the GP register. For each of the GP surgeries with data shown, there were over 190 people with a relevant mental health diagnosis (see Figure 34).

In addition to the mental health of residents, other primary drivers of risk in the Pimlico region were the number of supported housing projects. Figure 35 shows that there were twelve such projects in this area, out of forty nine in total in Westminster. There were also two centres offering treatment for problems with alcohol, one pay day loan shop and Pimlico is the location of Westminster’s second food bank. In addition, ten educational institutes were located in this area.

Taking this together, risk in the Pimlico area seems to be related to the mental health of local residents and services for homelessness, substance abuse as well as educational facilities offered in the local area.

Figure 32: Number of residents unemployed (per output area) in Pimlico

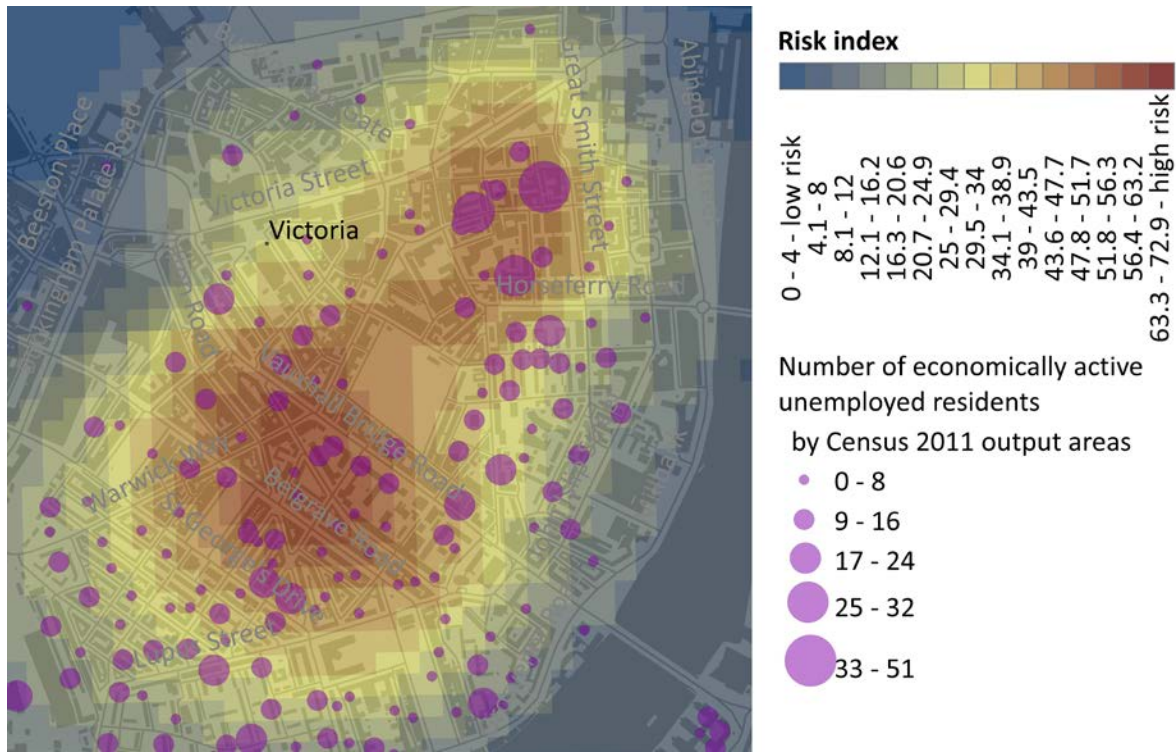


Figure 33: Number of residents from minority ethnic groups (per output area) in Pimlico

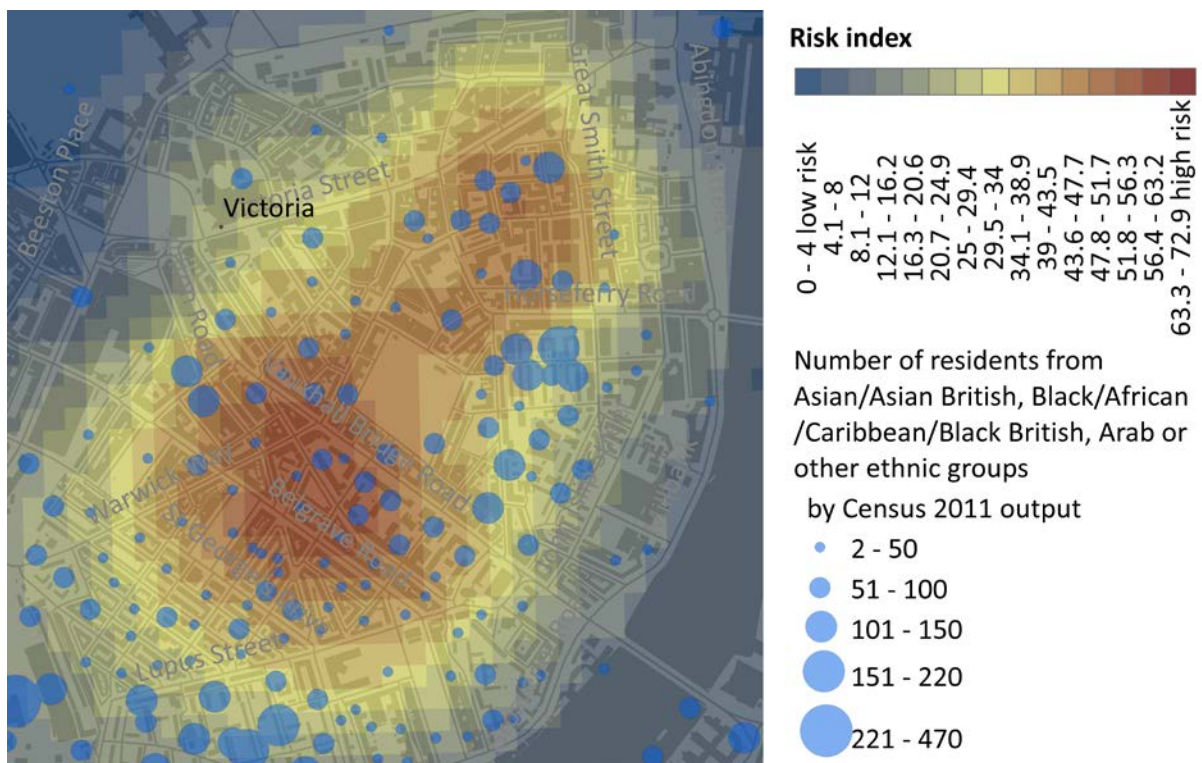


Figure 34: Number of GP patients with certain mental health conditions in Pimlico

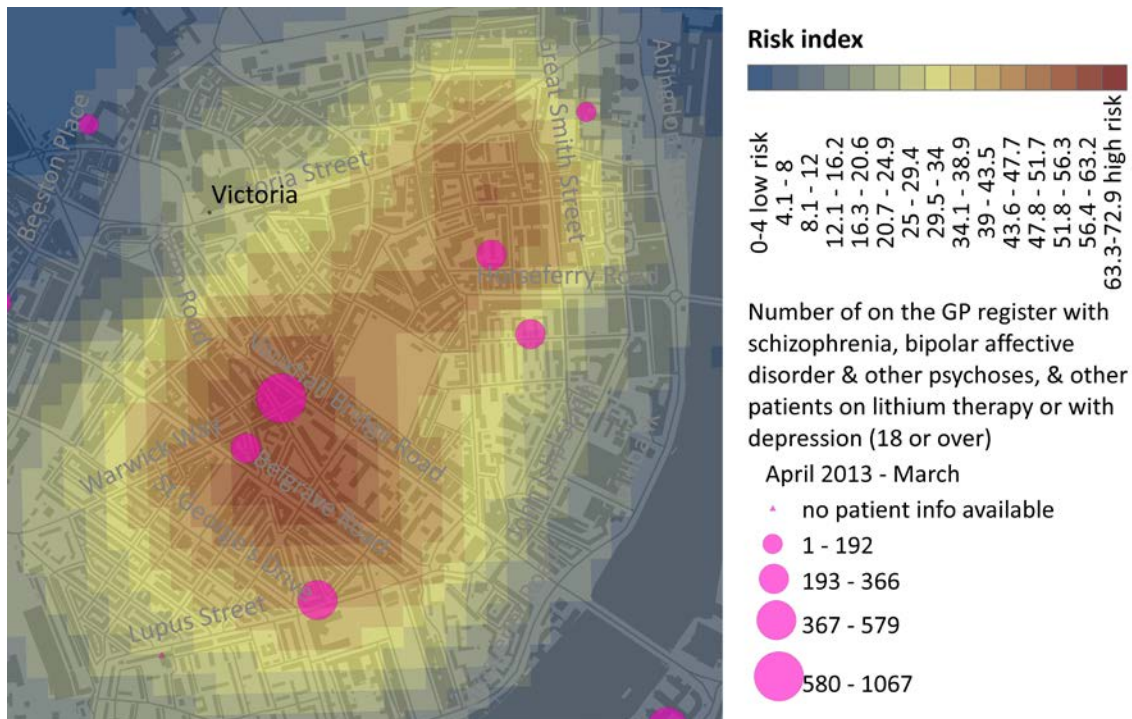
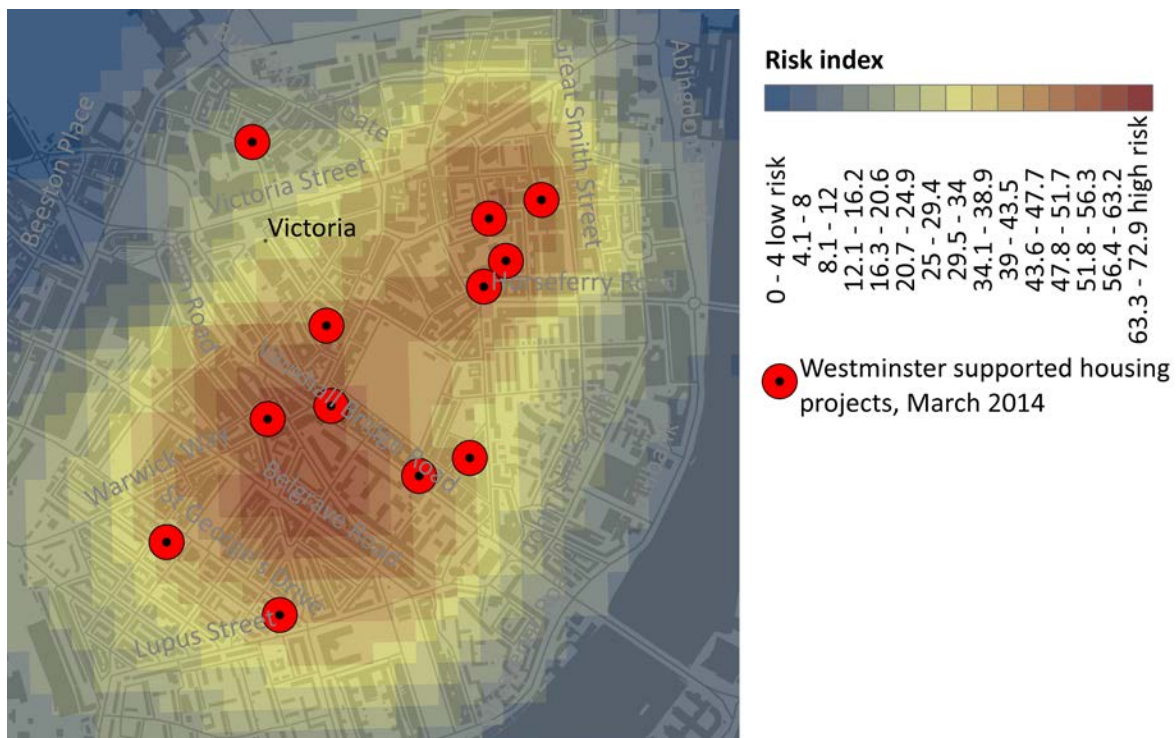


Figure 35: Location of Westminster Supported Housing Projects in Pimlico



This page is intentionally left blank



City of Westminster

# Licensing Committee

<b>Item No:</b>	
<b>Date:</b>	9 March 2016
<b>Classification:</b>	For General Release
<b>Title of Report:</b>	Licensing Appeals
<b>Report of:</b>	Director of Law
<b>Wards involved:</b>	Not applicable
<b>Policy context:</b>	A business like approach
<b>Financial summary:</b>	None
<b>Report Author:</b>	Hayley Davies, Legal Services
<b>Contact details</b>	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 Act 2003 Appeals**

### **4.1 Press, 32-34 Panton Street, London**

By application dated 4 June 2015, the Metropolitan Police Service applied for an Summary Review of the premises licence of Press Nightclub, 32-34 Panton Street, SW1.

The application was made on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. The review followed an incident within and outside of the premises on Sunday 31<sup>st</sup> May 2015 at approximately 02.35am, when a large scale disorder took place inside Press Nightclub. Several people were seriously assaulted and one male was stabbed in the neck. Numerous weapons were used during the incident including bottles, metal poles and tables. The disorder took place throughout the entire premises, with persons chased and attacked in staff areas. The disorder lasted approximately 10 minutes inside the venue before it spilled out onto the streets. 20-30 persons continued to fight outside the premises.

A Licensing Sub-Committee was held on 8 June 2015 to consider whether it was necessary to impose any interim steps pending the hearing of the full Review. Having watched the CCTV and considered the papers before it, as well as hearing representations from the Police and the licence holder, the Licensing Sub-Committee decided that it was necessary to suspend the primary premises licence due to the seriousness of the incident on 31 May 2015.

The full hearing of the Review was held on 29 June 2015. The Licensing Sub-Committee again heard submissions from the Police and Licensee with regards the operation of the premises and the incident on 31 May 2015. Mr Rankin on behalf of the Police advised that the licensee had denied that the stabbing had taken place inside the premises. The victim had suggested it had taken place outside and had not wished to take matters further. Mr Rankin added that the victim was known to the son of the licensee (who was also present at the time of the incident) and it may have been convenient for both parties to claim the stabbing had occurred outside. He added that the police were 99% certain that the stabbing took place within the premises. The Sub-Committee were of the view that there was a wholesale failure to manage the licensed premises and the proposals submitted on behalf of the licensee were not considered to be sufficient in the circumstances. The Sub-Committee therefore considered it was clearly appropriate to revoke the premises licence.



Notice of appeal was lodged by the Appellant's on 17 July 2015. The full hearing of the appeal is scheduled to commence on 12 January 2016 and continue on 13, 14, 15, 19 and 20 January 2016. Evidence and Rebuttal was exchanged in preparation for the full hearing with the Appellant proceeding on the basis that the decision of the Licensing Sub-Committee was correct, but that a new operator was proposed who would run the premises in a competent manner. In late November 2015, the Appellant advised of the withdrawal of their appeal as '*...it became apparent over the past few weeks from around the end of October that the appellant is insolvent.*'

A costs hearing was held on 9 February 2016 where the Court ordered that the Appellant, Paper Club London Limited, pay £39,746.20 to the City Council. The District Judge also agreed to list the matter for a further Case Management Hearing in May to enable the City Council to go back to Court if the costs are not paid. It is intended to seek costs against individual Directors who knew that the Appellant was insolvent and yet pursued with the appeal proceedings nevertheless.

#### **4.2 The London Edition, 10 Berners Street, London W1**

An application from a local resident, Mr Zafar Khalid, was received by the City Council on 22 May 2015 for a Review of the premises licence of The London Edition, 10 Berners Street, London, W1 on the grounds of the prevention of public nuisance. The Review was as a result of noise nuisance from patrons entering, exiting and smoking outside of the premises late at night, as well the noise created by cars picking up or dropping of patrons outside the premises. Representations in support of the application for review were received from the Environmental Health Service and from 15 other local residents.

The Licensing Sub-Committee considered the application on 17 September 2015. Having heard from the licensee, the applicant and those supporting the application for review the Licensing Sub-Committee considered that it was appropriate and proportionate to reduce the permitted terminal hours for the use of the public areas where alcohol was not ancillary to food and the dispersal of patrons was most likely to have an adverse impact on local residents. Members decided that the Licensee's proposed 01:00 terminal hour was acceptable on Friday and Saturday evenings which were not school days. However, the Sub-Committee decided that the terminal hours needed to be reduced to 22:30 hours on Sunday and midnight on Monday to Thursday. The Sub-Committee did not amend the proposed hours for the restaurant on the ground floor given that it was food led and customers were less likely to cause public nuisance on leaving this area.

The Sub-Committee attached some additional conditions to the licence in order to limit public nuisance, particularly relating to the dispersal of customers from the premises. These included that from 23:00 there would be two SIA registered door supervisors on duty outside the premises until 02:00. Also, Patrons who temporarily leave and re-enter the basement 'function room' e.g. to smoke would not be permitted to take drinks or glass containers with them. Patrons who were permitted to temporarily leave and then re-enter the basement function room, including to smoke or use their mobile phones, would be restricted to using the smoking area at the basement level (the smoking shelter). In addition, the Sub-Committee attached conditions which had been agreed by the Licensee, including that last admission would be at midnight, the proprietor's guest list would be limited to ten people and there would be a direct telephone number to a manager of the premises. Notice of appeal was lodged by the Licensee on 27<sup>th</sup> November 2015. The full hearing of the appeal is listed for nine days commencing on 6 June 2016.

## **5. City of Westminster Act 1999**

### **5.1 Pitch 545 and 546 Church Street Market**

Mr Zouglaheha has appealed against the decision of the Licensing Officer Panel on 30 September 2015 to revoke his street trading licences for Pitch 545 and 546 Church Street Market. The referral to the Licensing Officer Panel and the subsequent revocation of his street trading licences followed counterfeit goods found on display and for sale from the Pitches bearing a mark identical or likely to be mistaken for a registered name, mark or logo. Issues were also raised regarding items that were not on the commodities list of the licence that were being sold from the Pitches.

Notice of appeal was lodged against the revocation. A date for the full hearing of the appeal has been scheduled for 24 March 2016.

## **6. JUDICIAL REVIEWS / CASE STATED**

### **6.1 Sex Establishment Licensing - Fees**

The challenge took the form of a judicial review brought by Mr Timothy Hemming, trading as Simply Pleasure Ltd, and six other long standing licensees of sex establishments in Westminster, challenging the legality of the fee charged by the City Council for a sex establishment licence in 2011/12 (£29,102). The claim was made on two grounds. Firstly it was said that the Council had never lawfully set a fee for 2011/12. Secondly it was said that the amount of the fee was unlawful because it contained an element reflecting the cost of enforcing the sex establishment licensing regime.

The case was heard in the High Court over two days in March, both sides being represented by Leading Counsel. The Court gave judgment on 16 May, upholding the claim on both grounds.

An application for permission to appeal on the Services Directive issue, and costs, was filed with the Court of Appeal, following refusal of permission by the High Court. The Court of Appeal granted permission to appeal and the matter was heard on 14 January 2013.

Following the hearing, the parties were invited by the Court to make further written submissions on several issues, including whether it would be appropriate for the Court to refer the case to the European Court of Justice. Both parties made further written submissions

The Court handed down judgment on 24 May. The City Council's appeal on both the Services Directive issue and on costs was dismissed. An appeal on a third point, relating to the way in which fees for past years should be calculated, was allowed. The Council was ordered to pay 90% of the claimants costs of the appeal, and the claimants were ordered to pay 10% of the Council's costs. The Council's application for permission to appeal to the Supreme Court was refused.

An application was lodged to the Supreme Court itself for permission to appeal. Submissions in support of the Council's application for permission to appeal were filed by the Architects Registration Board, the Bar Standards Board, the Solicitors Regulation Authority, the Law Society, the Farriers Registration Council, the Care Quality Commission and the General Council of the Bar. An Order was received from the Supreme Court granting permission to Appeal. Applications to intervene were submitted on behalf of the Bar Council, the Law Society, the Architects Registration Board, the Solicitors Regulation Authority, the Bar Standards Board, the Care Quality Commission and the Farriers Registration Council. A conference with Counsel was held to discuss procedural issues and how best to deal with intervenors. The LGA had

been invited, and attended, the conference part way through to discuss the possible role of the LGA. It was agreed that WCC would instruct a Licensing Counsel to assist those already instructed to deal with any licensing issues and research regimes that may be impacted.

The LGA subsequently advised us that they have been advised by Counsel to apply to intervene by making written submissions.

A date for the hearing in the Supreme Court was set for 13 January 2015.

The case was heard in Supreme Court on 13 January 2015 before Lord Justices Neuberger, Clarke, Toulson, Reed and Mance. The parties are the City Council as appellant, Mr Hemming and the other sex shop proprietors as respondent, and the interveners. Seven regulatory bodies and the Local Government Association were given permission to intervene and were represented. There was also a ninth intervener at the hearing, the Treasury.

The hearing itself took place over one day. After the hearing, the Court wrote to all parties inviting further submissions on matters which, they considered, may not have been dealt with fully at the hearing because of shortness of time. These issues revolved around whether it is open to a licensing authority to charge, at application stage, a fee which is returnable if the application is unsuccessful, or whether such a fee may only be charged later, when the application is granted or at a later stage than that.

Judgment was delivered on 29 April, and, subject to one point which the Court has referred to the European Court of Justice, the City Council was successful.

The City Council submitted representations in writing on the referred questions to the ECJ on 28 September 2015. The interveners are due to submit their representations in writing by the end of November. It is understood that representations have also been made by the Netherlands and the Commission. Copies of those submissions will be circulated when all submissions have been received and translated.

Copies of all submissions made to the ECJ namely from Hemming, the European Commission and from the Netherlands have now been received. Counsel has considered those submissions and advised that an oral hearing be requested so as to maximise our prospects of achieving a successful outcome of the preliminary referral to the court in Luxembourg. An application for an oral hearing has therefore been submitted.

## **7. Legal implications**

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

## **8. Staffing implications**

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

## **9. Business plan implications**

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

## **10. Ward member comments**

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

## 11. Reason for decision

11.1 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](mailto:hdavies@westminster.gov.uk)

### **Background Papers**

- None