



City of Westminster

# Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 24th March, 2021**

Time: **10.00 am**

Venue: **This will be a virtual meeting**

Members: **Councillors:**

Matthew Green (Chairman)	Murad Gassanly
Heather Acton	Jim Glen
Barbara Arzymanow	Louise Hyams
Susie Burbridge	Tim Mitchell
Rita Begum	Karen Scarborough
Maggie Carman	Jacqui Wilkinson
Richard Elcho	Aziz Toki
Aicha Less	

**This will be a virtual meeting via Microsoft Teams. Members of the public are welcome to follow this live broadcast and can do so, by following the link on the council's website.**



**If you require any further information, please contact the Committee Officer, Kisi Smith-Charlemagne, Senior Committee and Governance Officer.**

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**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 Director of Law in advance of the meeting please.

## **AGENDA**

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

**1. MEMBERSHIP**

To report any changes to the membership

**2. DECLARATION OF INTEREST**

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

**3. MINUTES**

To sign the minutes of the previous meeting held on Wednesday 25 November 2020.

**4. REVIEW OF LICENSING FEES FOLLOWING THE IMPLEMENTATION OF FURTHER RESTRICTIONS UNDER THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) REGULATIONS 2020**

A report from the Director of Public Protection and Licensing

(Pages 3 - 10)

**5. AMENDMENT TO THE COUNCILS LICENSING ACT 2003 MODEL CONDITIONS**

A report from the Director of Innovation and Change and Director of Public Protection and Licensing

(Pages 11 - 48)

**6. LICENSING APPEALS UPDATE**

A report from the Bi-Borough Director of Law

(Pages 49 - 54)

**Stuart Love**  
**Chief Executive**  
**16 March 2021**



CITY OF WESTMINSTER

## DRAFT MINUTES

### Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 25 November 2020**, This meeting was held virtually.

**Members Present:** Councillors Heather Acton (Chair), Barbara Arzymanow, Rita Begum, Margot Bright, Susie Burbridge, Maggie Carman, Richard Elcho, Murad Gassanly, Jim Glen, Louise Hyams, Tim Mitchell, Karen Scarborough, Aziz Toki and Jacqui Wilkinson.

**Officers present:** Raj Mistry (Executive Director of Environment and City Management), Kerry Simpkin, (Head of Licensing Policy, City Policy and Strategy), Heidi Titcombe (Principal Solicitor), Andrew Ralph (Head of Licensing and Regulatory Service), Rebecca Gordon (Project Manager) and Kisi Smith-Charlemagne (Senior Committee and Governance Officer).

**Apologies for Absence:** Councillor Aicha Less.

#### 1 MEMBERSHIP

1.1 There were no changes to the membership of the committee.

#### 2 DECLARATIONS OF INTEREST

2.1 During item 5 Councillor Mitchell declared that he was the current chair of the Safer Business Network but he did not participate in the drafting of the comments submitted.

#### 3 MINUTES

3.1 Councillor Glen advised that there was a typo on page 6 on the minutes which should read marked pitches not pictures. The chair also noted that the word 'licence' should be spelt correctly, in all forms, as auto correct also has that effect on our notes.

3.2 **RESOLVED:** That the minutes of the Licensing Committee on 23<sup>rd</sup> September 2020 were approved.

#### **4. BUSKING AND STREET ENTERTAINMENT POLICY**

- 4.1 The Licensing Committee received a report from the Executive Director of Environment and City Management. The Chair advised the Committee that this was the fourth report brought to the Committee on the matter of Busking and Street Entertainment and since 2018, officers have been seeking to develop a new policy in Westminster that supports busking, improves safety, and reduces the impact of noise and obstruction for residents and businesses.
- 4.2 The Chair advised that she wanted to emphasise that the Licensing Committee would like Westminster to be a place where fantastic arts, music, drama, culture can be experienced on our streets. She added that the formation of the policy was really important for various parties which included buskers and street entertainers, many of whom developed their performances and built their livelihoods on our streets, and new talent, wishing to practice performing on our streets.
- 4.3 The Chair noted the importance of the policy for our visitors, who enjoyed the experience and value of seeing and hearing some great performances; our residents and businesses, many of whom also value busking, but can find that performances every day for up to eight hours can cause significant impact on their wellbeing and can affect their ability to work. The Chair also noted the council officers, with current powers which were not effective enough for them to take quick and meaningful action when responding to complaints.
- 4.4 The Chair advised the Licensing Committee that over the last two years, officers had been reviewing evidence, learning from others, listening and discussing the issues and that during that time two major consultations were conducted, the most recent attracting 900 responses. The Chairman noted that as a result of that work, the policy proposal being heard today was to present an approach balancing the different, sometimes conflicting, interests mentioned earlier.
- 4.5 The Chair confirmed that the council had held a number of engagement events where people had been able to present their views but thought that it was important that the Committee also heard directly from those who would like to address them on the matter. The Chair welcomed the fact that 20 residents, businesses, performers and their representatives had taken the time today to join the meeting, so that the Licensing Committee may listen to their views and perspectives before reaching a decision.
- 4.6 The Chair then invited Mr Raj Mistry, Executive Director of Environment and City Management to introduce the report and Mr Andrew Ralph, Head of Licensing to provide an overview of the November consultation results, the draft policy, and outline the recommendations that the Committee members had received and were considering today. The Chair noted the receipt of a late representation from the Royal Opera House and asked Mr Ralph to outline this when he addressed the committee.

- 4.7 Raj Mistry, Executive Director Environment and City Management presented the report addressed to the Licensing Committee and outlined the challenges and the many steps that had been taken before arriving at the proposed solution. He advised that busking had taken place every day on our streets over a long period of time, and was a spontaneous, enjoyable artform which could be a vibrant experience.
- 4.8 Mr Mistry added that there is often another perspective, one where the activity is causing a significant detrimental impact on residents and businesses, and in some cases risked the safety of the public. Mr Mistry informed the committee that many performers are responsible, they take care of noise, they make sure that they are safe, and control their crowds well. He advised the committee that there were also some performers who are not considerate in this way, with volumes so loud that it can be heard from a considerable distance.
- 4.9 Mr Mistry advised the Licensing Committee that the challenge the council faces, particularly around the issue of amplification, is that, regardless of whether a performer is acting in a responsible or inconsiderate way - due to the proximity of residents and businesses, and the way sound travels through the dense urban environment it is heard. He advised the committee that the constant churn of amplified performances for up to eight hours each day caused a cumulative and repetitive impact which was damaging and causing harm to those who live and work nearby.
- 4.10 Mr Mistry added that furthermore, as the responsible authority for the highway, the council was also responsible for public safety and that footfall pre COVID was already the highest in the UK. He informed the Committee that often performances cause trip hazards, bottlenecks, opportunities for pickpocketing, and pedestrians spilling out into roads. He noted that as a result of the challenges, the council receive around 2,200 complaints each year, as well as witnessing bad practices relating to busking.
- 4.11 Mr Mistry informed the Licensing Committee that the council did have some powers to manage the issues, however, in most cases, faced some significant challenges in their ability to act. He advised the committee that the current process was much too long and did not enable council officers to take quick action immediately when coming across a problem. He informed the committee that none of the powers given to the council provides an ability to tackle the cumulative noise nuisance experienced from the constant performances in a single area. Mr Mistry advised the committee that officers were not able to be everywhere all the time to advise buskers.
- 4.12 Mr Mistry advised the Licensing Committee that the council had previously avoided formal regulation, choosing to instead encourage buskers to set up informal management groups, self-regulate and more recently abide by the Mayor of London's 'Busk in London' Code. He informed the committee members that the consultation results demonstrated that residents and businesses felt strongly that voluntary measures alone had never been enough to protect them effectively. Mr Mistry advised the committee that the council had been clear from the start of the endeavour that it wanted to find a balance

that retained responsible busking in Westminster. However, he stated that the council could no longer accept that voluntary measures and current powers available were enough to improve the situation and reduce concerns effectively.

- 4.13 Mr Mistry informed the committee that the council had not taken the decision lightly. He advised the committee that knowing what was at stake for everyone involved, the council had spent two years engaging with residents, businesses, performers, and other interested organisations and institutions. He advised that the council had also held two public consultations, including a number of discussion events, to help understand and reach the most balanced position. Mr Mistry advised the committee that the council was committed to keeping its position under close monitoring and review. He added that the council proposed to regulate busking across the centre of the city, by adopting Part five of the London Local Authorities Act 2000.
- 4.14 Mr Mistry advised the committee that the council was aware that the approach was not generally supported by the buskers. However, the council had also made sure to keep its licensing process simple and affordable. Mr Mistry informed the committee that the council had tried to ensure it offered pitches that would allow for all the different types of acts. He informed the committee that licence conditions were only centred on matters of safety, audible sound and obstruction. Mr Mistry advised the committee that there was the freedom within the policy for performers to organise and manage themselves. He added that the council was encouraging buskers to do so, as well as pressing for their continued engagement, through the development of; a website, a street entertainment forum, and the council's commitment to review the impact of the policy.
- 4.15 The chairman then introduced Mr Andrew Ralph, Head of Licensing, to provide an overview of the November consultation results. Mr Ralph advised the committee that on 23rd September 2020 the Licensing Committee approved the recommendation for the council to hold a second public consultation on the busking and street entertainment draft policy. He noted that the committee would recall the main change from the previous policy and consultation results in July this year, was that the area regulated was widened across the centre of the city to ensure the delivery of a more consistent approach to busking and enforcement, and to protect against the likelihood of displacement.
- 4.16 Mr Ralph advised the committee that the policy included:
- The City-wide code of conduct, which sets out clear guidelines on what the council considers responsible busking
  - The Busking and Street Entertainment Forum, which would become the direct avenue for our ongoing engagement with the busking community
  - Support for Street Performers' Associations (SPAs) which can play a vital role in managing performance activities, as well as engagement with the wider busking community
  - Maps of the regulated area for licensing across the centre of the City and the 25 pitches proposed
  - The Standard Licence conditions, and pitch terms and conditions

- The Application process
- The council's commitment to keeping the policy under close review.

4.17 Mr Ralph advised the committee that officers launched the consultation on the 24th September, and it ran for just over 5 weeks until 1st November. He informed the committee that officers had invited people to respond during the consultation period through an online survey, written representations, as well as in three engagement sessions. Mr Ralph advised the committee that the council had received a great response, having received almost 900 survey responses, 30 written responses, and good attendance from a variety of different stakeholders at our open sessions. He added that the detailed analysis, as well as the responses, are contained in the report and attached in appendices.

4.18 Providing an overview of the consultation, Mr Ralph informed the committee that in summary, breaking down the views, officers concluded that most residents and businesses were in support of the proposals, whilst most buskers and visitors oppose them. He advised the committee that the main comments received from those who opposed the policy were:

- That they were not in agreement that busking should be regulated
- That performances should remain free and open to all without unnecessary controls
- That introducing licensing is not cost effective
- That the fee is too high and alienates some, including students
- That there are not enough pitches
- That the council should do more to make use of existing powers and work with performers on voluntary approaches

Mr Ralph informed the committee that others disagreed with the policy for different reasons, citing that it was not strict enough, and more specifically that the council should place more controls on preventing busking with amplification. He advised that the council had reviewed all responses at great length.

4.19 Mr Ralph advised the Licensing Committee that the council should continue to introduce licensing to regulate busking, because this will bring about a balanced benefit for all - as it allows the council to support busking, improve safety, will help to reduce the impact of noise and obstruction, as well as providing better powers to manage any issues. Mr Ralph informed the committee that in response to the feedback, the council had considered that some changes to the proposals are required to achieve a better balance. Some are specifically for the busking community including:

- an additional pitch in Covent Garden and vocal amplification in James Street
- a reduced licence fee for shorter length licences and also for students
- the removal of some requirements from the licensing conditions, specifically the requirement to have a 20-minute break between acts
- the relocation of the pitch in Villiers street, away from neighbouring residents to near Hungerford bridge on the Northumberland Avenue side.

- 4.20 Mr Ralph advised the Licensing Committee that the council had retained the amplified pitch in Leicester Square. He advised that the pitch had received much attention from residents and businesses in the area, who wished for the pitch to be non-amplified. Mr Ralph advised the committee that officers had concluded that, because Leicester Square is an open pedestrianised public space surrounded by businesses, with high footfall, external hospitality use, and that also an area that is widely recognised and associated with busking and street entertainment - one amplified pitch in this area, where sound levels will be regulated, is considered proportionate.
- 4.21 Mr Ralph highlighted section 2 of the report noting several legal requirements, statutory notifications, and timescales that officers must ensure are followed to bring the policy into fruition. He advised that should the committee make the decision today to recommend to Full Council on the 9th December 2020 the adoption of the policy, it will include:
- Adopting Part V of the London Local Authorities Act 2000
  - adopting the draft designating resolution for licensed streets, along with the application procedures and standard conditions which, if approved, will go out for a seven-week consultation between December and January.
- 4.22 Mr Ralph advised the committee that it will then be for Full Council in March 2021 to decide whether to adopt the draft designating resolution either as drafted or as amended, in light of any written and oral representations during the seven-week consultation period. He informed the committee that if Full Council decided to license the proposed streets in March the changes would then come into effect on 5th April 2021. Mr Ralph brought the committee's attention to point 4 on page 9, where it said "premises". He advised that it should say "property" in line with the pitch conditions and will be amended if the scheme was recommended to Full Council.
- 4.23 Mr Ralph mentioned a late submission received in relation to the additional amplified pitch in James Street. He advised the committee that amplification was something which the council had considered necessary for some of the pitches across the city. He informed the committee that it was proposed that, by regulating how that happens in the policy, alongside the conditions on the licence, it will allow the council to work with buskers to improve upon current conditions. Mr Ralph advised the committee that the pitch referred to in the late submission is for vocal amplification only (not music) and that it is to facilitate performances where Street Performers would need to project their voice. He added that the change came following consultation responses from a number of different sources including buskers and businesses.
- 4.24 The chairman thanked both Mr Mistry, Mr Ralph and all the officers for their hard work. The chairman then welcomed the interested parties to address the Licensing Committee, allowing each person 3 minutes. The Licensing Committee then heard from 19 interested people who represented some of the sides and stakeholders impacted by the policy.
- 4.25 Buskers and Street Performers: generally objected to the policy and raised

concerns with the following:

- Street performing has built many careers and these would be negatively impacted
- The high number of pitches being removed and the low number of proposed pitches that will be available to them
- The low number of proposed amplified pitches available to them
- The popular areas where there are pitches are being removed
- The loss of livelihoods
- The history and culture of busking and street performing would be negatively impacted
- The vibrancy and enjoyability of the city would be negatively impacted
- Safely executed “Dangerous acts” performances will not be permitted
- International performers will not be attracted to perform on the west end streets
- Covid had impacted negatively on Buskers and Street Performers
- Tourism would be negatively impacted
- The low overall percentage of residents and businesses that responded negatively
- Finding ways to work together with the current laws to improve the situation
- Similar schemes had not been successful
- Self-employed people would be negatively impacted

4.26 Local Businesses: were generally in support of the policy and raised concerns with the following:

- The constant noise disruption
- The volume of noise
- Unable to function at work or hear themselves talk or think
- Direction of pitch 9 northeast corner of Leicester Square and amplification in Leicester Square
- The loss of livelihood as unable to use or rent spaces due to noise or disruption
- Safety, overcrowding and petty crime
- Self-regulation had not been successful
- Enforcement and resources for the policy
- What constitutes nuisance and how it will be measured

4.27 Residents were generally in support of the policy but raised concerns with the following:

- The negative impact of amplification on the quality of homelife and on mental health
- The constant noise disruption
- The volume of noise, even without amplification
- Unable to function at home or hear themselves talk or think
- Difficult legislation to enforce and how it will be resourced

- Covid – working from home has been affected by noise from busking
- 4.28 The Chair again thanked all the speakers for speaking so clearly and also keeping within the time constraints and requested the committee members to be brief in asking questions. Cllr Hyams thanked the two opposing sides for their contributions to the meeting. She advised that she was hopeful that the policy would be a way of bringing those sides closer together. Councillor Hyams advised that she was one of three Ward Councillors for St James', and the ward includes many of the areas discussed; Leicester Square, Trafalgar Square, Covent Garden, Piccadilly Circus, many of the places where pitches were proposed and busking and street performing was very much in evidence. She noted that over the years the numbers of complaints from residents and businesses has increased. She added that she believed that increase in complaints was commensurate with the growing sophistication of amplifications.
- 4.29 Councillor Hyams advised the committee that she supported street performing and was not objecting to street performing as such but objecting to the consequences of it, and in particular around noise. She felt that the policy was about managing the issues in a way that is fair for everybody. She noted the particular issue of amplification of the pitch near the Opera House and stressed that the council would be monitoring all pitches. Councillor Hyams noted similar concerns about the pitch in Leicester Square, advising that the committee had heard from the Hippodrome regarding the effects that loud amplification has on their business and also from the Chinese community Association on how it affects them. She added that there were residents in Leicester Square and emphasised how residential the Centre of London was.
- 4.30 The Chair raised a query regarding pitch nine remaining in situ with reference to comments from others with regard the pitch being removed, or the direction of the pitch changed. The chairman requested the officers' technical view on the query raised. In responding to the queries raised Mr Andrew Ralph advised the committee that in terms of monitoring, the council were proposing to undertake that task during the run up to the implementation date. He advised the committee that if the policy was agreed, the city inspectors would engage proactively in key areas, which would include Leicester Square, Trafalgar Square, Covent Garden and Oxford Street. Mr Ralph advised the committee that his team would liaise with performers and buskers to ensure that they are aware of the impending implementation date and the requirements that will and will not be accepted after the implementation date.
- 4.31 Mr Ralph advised that from the implementation date, officers will again, engage proactively in those areas, dealing with the buskers, with the street entertainers and trying to resolve any teething issues that there might be. He advised the committee that the council was proposing a three strikes approach in terms of licensed buskers in those areas. 1) Officers would engage with the busker and point out what was not correct 2) take more formal action and then 3) potentially escalate to the highest level which would be to suspend the performer in order to deal with the issue.
- 4.32 Mr Ralph also responded to the point made in relation to dangerous props and

confirmed that it was correct that the conditions do prohibit certain types of props. However, he brought the committee's attention to page 27 of the policy, which makes it very clear that the council would allow applicants to make variations against those standard conditions. Mr Ralph advised the Committee that this would allow the council to have a more engaged conversation with the performers and understand what it is they want to do, how they propose to do it, and therefore be able to waive conditions and allow acts, where appropriate, and where the activity can be done safely, so the policy would not prohibit those particular acts. With regards to turning the direction of pitch number nine around, Mr Ralph advised that his team would certainly look into the matter.

- 4.33 Councillor Glenn advised the committee that he valued what street performers brought to Westminster and London as a whole and was concerned the council does not sanitise and homogenise what is offered. He asked for clarification on the number of pitches that are proposed, as he advised that he read in the papers that it was 25, however the first few speakers all spoke of about 6 pitches. He also enquired whether one licence would allow buskers to perform on any of the pitches across Westminster. Councillor Glen also sought clarification regarding the definition of nuisance; he felt that as neither side was happy with the proposals, it highlighted how difficult a problem this was. He felt that a balance needed to be struck in terms of what was acceptable, both to encourage the vibrancy of the street performing and also to make London liveable. Councillor Glenn also sought confirmation regarding the ongoing relationships with the street performing associations and the Covent Garden Street Performance Association.
- 4.34 The Chair confirmed that there were 26 proposed pitches and believed that six were amplified, and that the reference was being made to the limited number of amplified pitches, but that as had been heard, amplification is one of the major issues. Responding to the query regarding licensing and noise nuisance, Mr Ralph advised the committee that the licence would be granted for a period of one or six months and that either of those licences would allow the holder to perform on any of those 26 pitches.
- 4.35 Mr Ralph added that in terms of noise nuisance, this was notoriously difficult to address. He advised the committee that ambient noise levels would change throughout the course of the day and that therefore the noise levels that the performances would output would have to go up and down accordingly. He added that equally, if there were other activities in the area at the time, they would also have an impact on background noise, and therefore that may also require some adjustment of volume levels. Mr Ralph advised the committee that it was something that the council would continue to work on and would try to make clearer. However, it did mean that council officers would need to be listening on the streets, within businesses and residences; and engaging with the buskers. He added that this would be a key part of the council's city-wide voluntary code; and the buskers and street performers would need to consider how their volume was impacting on the surrounding neighbours – both business and residents.
- 4.36 The Chair advised the committee that the Covent Garden Street Performers

Association had worked with officers and neighbours and that it was important that their partnership role continued and kept under review with the potential to develop this. She added that she valued the intent that has been mentioned by some of the street performers to sit around the table and keep up the engagement process. She felt that there was opportunity to build relationships even further, not just with the Covent Garden SPA but with other SPAs.

- 4.37 Councillor Mitchell advised the committee that he was also a ward councillor in the St James's ward, which represents a substantial part of the proposed new policy. He advised the committee that he felt everybody had not fully understood the intentions behind the proposals. He noted that the committee had heard very impassioned speeches from many street performers and particularly Covent Garden performers, which was a very important part of his ward. He pointed out that the committee had also heard from residents and businesses about the impact of street performing on them.
- 4.38 Councillor Mitchell acknowledged that street performing, and busking is an important part of the city, but getting a balance right was equally as important. He added that he felt it was really important to understand that it is amplified noise that is the main issue, adding that some of the points had been mentioned in the papers, but that this is also apparent from the correspondence that he and his ward colleagues had received from local residents and businesses regarding the impact of the existing, unregulated, regime across the ward.
- 4.39 Councillor Mitchell referred to the ongoing issues in Piccadilly Circus where for years there has been a pitch, which has been used for drumming, dancing and various other performance, which is very popular with visitors. However, sound travels and only recently he recalled getting an email from a resident complaining about the disturbance in his flat in Charing Cross Road. For those who were familiar with the area, they might realise that it's quite a few hundred meters away from Piccadilly Circus and yet still has an impact. He added that he is also receiving complaints from local residents who live on the junction to St Martin's Lane and Cranbourne street, where there is a completely unauthorised pitch adjacent to the Agatha Christie Memorial.
- 4.40 Moving to Covent Garden itself, Councillor Mitchell advised the committee that it had heard very eloquently the impact on residents of what is generally seen to be a well-managed pitch outside Saint Paul Church. He added that, with due respect to the Covent Garden Street Performers Association, and as the papers really made clear, even with a well-run SPA there are still problems. Councillor Mitchell informed the committee that there were particular problems on the eastern side of the piazza outside the Opera House, which impacted a major cultural institution and local residents, but also outside the London Transport Museum. He added that the policy is a massive step and a step in the right direction and should be approved today for the formal processes to be put in place.
- 4.41 Councillor Scarborough addressed the Licensing Committee and advised the committee that she, like many others, agrees that busking and Street Entertainment was an integral part of culture in Westminster and it was

appreciated by many. She added that she was completely supportive of busking and Street Entertainment; however, it did need to be managed. Councillor Scarborough thanked residents who had contacted her regarding the disturbance from Street Entertainment in her ward of Marylebone High Street which includes parts of Oxford Street.

- 4.42 She added that she welcomed the proposals for Oxford St, Regent Street and Bond Street, which will allow four pitches, and the pitch at Marble Arch was proposed to be amplified. She noted that that it was very residential area, particularly off Oxford Street, which was in her ward, along with Picton place, Barrett Street, Duke Street and Gilbert Street, where many residents living there were already disturbed by Street Entertainment. Councillor Scarborough welcomed the policy and felt that it was important to continue to work with everybody and that busking, and Street Entertainment did need to be managed.
- 4.43 Councillor Burbridge addressed the Committee, advising that it had been an exceedingly useful meeting, having the opportunity to hear from the performers, business and residents and thanked them for taking the time to join the meeting. Councillor Burbridge addressed earlier comments made with regard to the Committee having already made its decision and she added that this was misleading. She said that officers and councillors had worked hard to find a balanced approach. Councillor Burbridge discussed the need for modernisation and not gentrification and she also felt that performers with liability insurance and safe practices should be able to continue with their acts.
- 4.44 Councillor Burbridge advised the Committee that the council was doing the right thing by bringing in the policy and she welcomed officers and the Chair for reminding the Committee that the policy would be kept under review; meaning that any issues that arise can be brought forward for solutions and resolved. Councillor Burbridge acknowledged that amplified noise was causing certain problems, and, as her fellow committee members had pointed out, there was a need to define nuisance. She added that she supported the policy put forward, however it should be kept under review, so that changes could be made and adopted that would be helpful to everyone.
- 4.45 Councillor Carman addressed the Licensing Committee; she recognised that that performers would need to supply a national insurance number or proof of the right to work and she felt that this could be seen as a barrier to international performers. She queried if the process could be simplified to avoid this. The Chair advised the committee that officers had amended the process, in response to comments from street entertainers. The Chair asked Mr to Ralph to provide the Committee with a further information. Mr Ralph advised the Committee that the council did have a duty to make sure that the individuals that are working in Westminster under a licence granted by the Council have a right to be here working in the UK. He added that initially two forms of photographic ID were requested; however, that had been reduced to one plus one alternative form of ID.
- 4.46 Councillor Toki sought further clarification regarding the licence fees, duration of the licence and how licences will be reviewed later on. He also sought further

clarification on how many buskers and entertainers had shown an interest in having a licence. The chairman advised the committee that as outlined in the policy, the licence would generally be for six months. She added that, again, following comments from the consultation, officers had introduced a shorter-term licence at a reduced fee, and also a reduced fee for students to perform. The Chair advised the committee that the council is currently speaking to arts and music colleges which were expressing interest in getting involved, perhaps through the forum but also to encourage their students to perform on our streets.

- 4.47 Mr Ralph addressed the Committee and advised that it was difficult to estimate how many street performers would apply for a licence. He informed the Committee that they envisaged between 120 to 140 may apply for a licence across the city. He added that he envisaged each pitch could be used for a number of 40-minute performances, until 21:00, and so it would allow multiple buskers on each pitch throughout the course of a day. He advised that buskers hold licences to perform on those pitches and then it would be the buskers themselves who would arrange how the slots were organised. He added that this was one element of the self-regulation that applied to the buskers.
- 4.48 The Chair advised the Committee that with regards to Covent Garden, one circus performance was only able to work on one of the Covent Garden pitches, as that was the only size that accommodated it safely. She added that there were 12 shows a day and over 30 performers who could not perform elsewhere. The Chair advised the Licensing Committee that the SPA was keen to keep in place their own audition and licensing system of the West pitch and the council were keen to work with the SPA to help enable that to happen. The Chair also addressed an earlier comment which stated that the council refused to meet the Covent Garden SPA, advising that the council did hold meetings with the Covent Garden SPA. The Chair also added that it was certainly possible and indeed essential to have a SPA representative as part of the monitoring discussions and any changes over the year.
- 4.49 Councillor Elcho advised the Licensing Committee that as one walks around the borough, it can be such a joy to walk through an area where somebody's playing music or performing another type of act. It can be uplifting, and as Ronald Reagan once said, "Government is not the solution to our problems, Government is the problem." He added that liberty is a wonderful thing, but he did sympathise with those who live or work near a busking pitch. Councillor Elcho informed the Committee that he was in an area where there was a lot of amplified music, which had an impact, especially during a lockdown. He felt that the policy was about managing, regulating, and licensing an activity for the common good. He added that he also agreed that performance of swords, beds of nails and those similar, should still be allowed.
- 4.50 The Chair thanked officers and the Licensing Committee members for comments, hard work and again thanked all the parties for attending. Mr Ralph brought the Licensing Committee's attention to the paragraph where it referred to it being possible for performers with props that might otherwise be considered dangerous, (eg swords and axes), to still apply for a licence. The members of the Licensing Committee then voted to approve the recommendations as

specified in section two of the report.

- 4.51 **RESOLVED:** Unanimously (**14 Votes**). That the policy be recommended to Full Council.

## **5. LICENSING POLICY AND CUMULATIVE IMPACT AREA (CIA) CONSULTATION REPORT**

- 5.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing committee and informed them that The Licensing Act 2003 (the Act) was amended in 2008 to make it a requirement to undertake a Cumulative Impact Assessment (CIA) if it has areas of the city that were believed to be under cumulative stress due to the number and concentration of licensed premises. He advised the Licensing Committee that the licensing authority produced a CIA earlier this year based on data from a wide range of sources over a period of three years (2017-2019). He added that the CIA was carried out prior to COVID-19.
- 5.2 Mr Simpkin advised the Licensing Committee that the Licensing Authority carried out consultation to statutory consultees and the wider public between the 12th October and 15th November 2020 on the authority's intention to publish the CIA. He informed the Licensing Committee that the consultation was run in parallel with the consultation on the Council's proposed revisions to its Statement of Licensing Policy under the Act. He added that a total of 166 responses were received to the consultation. He informed the Licensing Committee that there was a mix of responses and that, although the questions posed in the consultation related to the CIA, the responses often related to the proposed policies associated with cumulative impact or as a result of the findings from the CIA.
- 5.3 Mr Simpkin advised the Licensing Committee that no significant issues were identified during the consultation exercise that would require the Licensing Authority to amend the 2020 Cumulative Impact Assessment as produced. He advised the Licensing Committee that it was proposed that the CIA should be published on the 1st December 2020. Mr Simpkin informed the Licensing Committee that the Act required the Licensing Authority to undertake a review of the CIA within three years. He added that it was anticipated that, due to the impact of COVID-19, and the recovery needed following the pandemic, potentially the Licensing Authority would need to undertake a review within the next 18 months.
- 5.4 Mr Simpkin told the Licensing Committee that the current and proposed revision of the Council's Statement of Licensing Policy contained a Cumulative Impact Policy, which has a presumption to refuse certain applications within a designated cumulative impact zone. The current cumulative impact zones are located within the West End, Queensway/Bayswater and Edgware Road. He added that it is proposed under the new revised policy that both Edgware Road

and Queensway/Bayswater zones would no longer be classified as a Cumulative Impact Zone.

- 5.5 Mr Simpkin advised the Licensing Committee that Queensway/Bayswater and Edgware Road were found not to be under cumulative stress. He informed them that the levels of incidents rates in these areas were higher than the borough average, but that the incidents could not be linked conclusively to licensed premises in order to demonstrate cumulative impact. Mr Simpkin advised the Licensing Committee that it was recommended to note the responses to the consultation and agree to publish the 2020 Cumulative Impact Assessment (CIA) in accordance with Section 5A of the Licensing Act 2003 from Tuesday 1st December 2020.
- 5.6 Councillor Mitchell addressed the Licensing Committee and informed them that it was brought to his attention by the Chief Executive of the Saver Business Network that they had made a representation which is in paragraph three of the consultation responses. He declared that he was the current chair of the Safer Business Network but that he did not participate in the drafting of the comments. Councillor Mitchell noted the point that Mr Simpkins made that it was the intention to review the cumulative impact assessment within a shorter duration and he hoped that it would be shorter than the three-year review required by statute. He advised that the same point was being made by the business networks, in that they would like to see a review after no later than one-year from now.
- 5.7 Councillor Glen addressed the Licensing Committee and sought further clarity on the report where it stated that Westminster suffers more incidents than in other London boroughs, in fact 10% of all incidents in London, despite being very small area. He queried whether it was appropriate under the legislation to compare areas of Westminster with other areas of Westminster rather than London as a whole, when considering what should make up the cumulative impact area, and whether Westminster has a higher bar, which may be correct.
- 5.8 Responding to the queries raised, Mr Simpkin confirmed that the council is anticipating a review within 18 months. He advised the Licensing Committee that the council's approach was based on the city and how CIA affects different parts of the city. He advised the Committee members that if they looked at comparing other local boroughs and where the bar is in terms of where it is felt cumulative impact occurs, he did not feel that the Westminster bar, particularly for the approach used to review the CIA in this case was much higher than other areas. He stated that the team had looked at other CIAs, not just across London, but also across other major cities around the country.
- 5.9 Councillor Scarborough addressed the Licensing Committee and expressed her thanks to the officers for the hard work and the production of the extensive reports. Councillor Burbridge addressed the Licensing Committee and also thanked officers for an excellent piece of work. She raised queries regarding the current Queensway/Bayswater regeneration which had been ongoing for the last two years. She felt that this had probably kept the numbers of incidents down and was unsure whether that had been taken into consideration.

Councillor Burbridge also advised the Licensing Committee that since this review started there had been changes to the planning legislation D class which will make it much easier for premises to become restaurants. She queried whether the issue had been considered as it would be very relevant to Queensway.

5.10 Mr Simpkin advised the Licensing Committee that Queensway/Bayswater would be part of the special consideration zone. He advised the Licensing Committee that the analysis for the CIA did not allow for more localised activity like regeneration, it could only use the evidence base over a three-year data set period. He added that the team was not able to go out for observational analysis, given COVID and so had no choice but to use the evidence before them. He added that to maintain any sort of cumulative impact policy approach it was a requirement to produce a Community impact assessment. Mr Simpkin added that therefore it could be important to undertake a further review of the CIA in the next year, subject to the recovery from COVID. He advised the Licensing Committee that the planning use class had not come into effect or had not gone through Parliament at the time of the analysis, so that was not a consideration. However, that element, along with the issues associated with special consideration zones, would be addressed in the report to the Council.

5.11 Councillor Arzymanow thanked officers for the report. It was useful to compare the wards, as it did put things into perspective and why some wards were not included as Cumulative Impact Zones. She expressed that she would welcome a review in order to look at boundaries, and also as there were many gambling and sexual entertainment venues located in her ward.

5.10 **RESOLVED:** Unanimously (**14 Votes**). That the consultation responses are noted and approved to be published.

## **6. SUMMARY OF CONSULTATION RESPONSES TO THE PROPOSED REVISIONS OF THE COUNCIL'S STATEMENT OF LICENSING POLICY**

6.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing Committee and informed them that the Licensing Authority began its statutory consultation on its proposed revisions to the Statement of Licensing Policy on the 12th October 2020. He advised the Licensing Committee that the consultation ran for a period of 5 weeks ending on the 15th November. Mr Simpkin informed the Licensing Committee that the Licensing Authority received 166 responses to date from a range of different stakeholders. He added that the report provided a summary of those responses.

6.2 Mr Simpkin advised the Licensing Committee that the Licensing Act 2003 (the Act) required that each Licensing Authority must for every five-year period determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period. Before the Licensing Authority can determine its policy for a five-year period it must consult those specified within the Act. Mr Simpkin advised the Licensing Committee that the current Statement of Licensing Policy (SLP) five-year term will end on

the 6th January 2021. He informed the Licensing Committee that the Licensing Authority has undertaken a review of the policy and proposed a number of revisions. He added that some of these revisions were as a result of the findings of the Cumulative Impact Assessment (CIA), which provided evidence to support the inclusion of an amended cumulative impact policy within the SLP.

- 6.3 Mr Simpkin told the Licensing Committee that in light of the findings from the CIA and the potential impact of COVID-19 the Licensing Authority had taken a pragmatic approach in considering the CIA findings and the proposed revisions to the SLP. He advised the Licensing Committee that as a direct result of the ongoing uncertainty, impact on licensed premises and the reduction in visitor numbers, the Licensing Authority had decided that expanding the current West End Cumulative Impact Area and implementing further restrictions on other premises uses within that area would not be appropriate. He added that due to the current COVID-19 impact and restrictions on the hospitality sector the Licensing Authority did not believe that the approach would be at odds with its duty to promote the licensing objectives.
- 6.4 Mr Simpkin advised the Licensing Committee that the next steps would be for the Cabinet Member for Public Protection and Licensing to agree the final revisions to the Statement of Licensing Policy and refer it to Full Council on the 9th December requesting that it be formally adopted. He added that the report provided an opportunity for the Licensing Committee to provide their final views on the proposals in light of the consultation responses. Mr Simpkin advised the Licensing Committee that it was recommended to provide their views on the summary of the consultation responses relating to the proposed revisions of the Statement of Licensing Policy, and, having had regard to the responses to the consultation, provide a steer on whether any of the proposed revisions should be amended.
- 6.5 Mr Kaner from the Covert Garden Residents Association (CGRA) addressed the Licensing Committee and he advised that there was a general theme from businesses that they would like to see a further relaxation of the CIA policy. However, residents who live in the CIA zone suffer from a level of impact which was at times far higher than the borough average and were concerned that any relaxation of the CIA or the wording of the CIA policy would make the situation worse. It was also clear that, despite the presumption to refuse applications to certain types of premises, the number of licences in the cumulative impact zone had increased and so had the negative impacts.
- 6.6 Mr Kaner advised the Licensing Committee that an observational study would have shown an even higher level of issues than those reported. He said that residents had given up reporting public nuisance issues, especially for noise in the street, because nothing happens as a result. This meant that this type of nuisance was not going to be visible in the council's analysis. It was his view that as the CIA policy is focused on the presumption to refuse certain types of premises, it meant that applicants just applied successfully for a different type of licence, such as the restaurants in the CIA. Mr Kaner felt that many applicants are granted a licence because restaurants are not normally associated with crime and disorder, but they do generate public nuisance, especially as people

leave or arrive, and this is particularly the case when there are lots of them grouped together.

- 6.7 Mr Kaner advised the Licensing Committee that he had seen a significant increase in the number of MC66 restaurants in the CIA and an increase in the level of issues on the street; he felt that this was not a coincidence. He advised the Licensing Committee that applicants for all types of premises should work harder and put greater focus on mitigating the impacts of the granting of a licence. Mr Kaner informed the Licensing Committee that Covent Garden Resident Association asked that officers review the wording of the cumulative impact policy so it makes absolutely clear that, within the CIA, the presumption to refuse is not dependent on the type of operation but on whether or not it will add to cumulative impact.
- 6.8 The chairman thanked Mr Kaner for his submission and welcomed questions from the Licensing Committee members. Councillor Burbridge thanked Mr Kaner and stated that she agreed with the points that he raised. Responding to Mr Kaner, Mr Simpkin advised the Licensing Committee that the in the next review there was scope to review and consider this representation and balance it alongside other responses received.
- 6.9 **RESOLVED:** Unanimously **(13 Votes)**. That the changes to Statement of Licensing Policy be approved.

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

- 7.1 There was no other business raised by the Committee.

The meeting ended at 2:00pm.

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_

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## City of Westminster Report

<b>Decision Maker:</b>	Licensing Committee
<b>Date:</b>	24 March 2021
<b>Classification:</b>	
<b>Title:</b>	Review of Licensing Fees following the implementation of further restrictions under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
<b>Wards Affected:</b>	All Wards
<b>Key Decision:</b>	To agree to waive fees and charges and reduce application fees for licensing regimes impacted by the national restrictions implemented by Government to combat the coronavirus pandemic.
<b>Financial Summary:</b>	The implementation of these recommendations would result in the reduction of £1.05million income for the Licensing Authority
<b>Report of:</b>	Alex Woodman Interim Director of Public Protection and Licensing

### 1. Executive Summary

- 1.1 The council manages many different licensing regimes under different pieces of legislation. Fees are charged for applications and most licences are required to renew annually and there are fees for this.
- 1.2 Since the beginning of the Coronavirus pandemic the Government has imposed national restrictions, under coronavirus legislation, which resulted in licensed businesses and individuals being unable to trade.
- 1.3 Many of these business and traders approached the council asking for fees and charges to be waived or reduced to support their businesses.

- 1.4 In June, a Licensing Urgency Committee agreed to waive fees and reduce Part B fees associated with other licence applications.
- 1.5 On 31 October 2020 the Government imposed further restrictions from November 5 to December 2 requiring all non-essential business and hospitality to close.
- 1.6 From midnight on 20 December 2020 all non-essential retail was required to close again, as London moved into Tier 4 of the Government's measures to combat the coronavirus pandemic. A new national lockdown was implemented on January 4 reiterating the need for non-essential retail and hospitality to remain closed.
- 1.7 The Government has announced its road map to lifting the current restrictions and in the earliest date that licensed premises and non-essential retail can resume is April 12.

## **2. Recommendations**

- 2.1 That the Licensing Authority waives the full fees for non-essential market traders that are unable to trade during the restrictions in place in November 2020 and again in December 2020, January, February, March 2021 and up to April 12.
- 2.2 That the Licensing Authority reduces renewal fees and/or Part B fees, pro-rata, for businesses that are closed and not permitted to trade, during the restrictions in place in November 2020 and again in December 2020, January, February and March 2021 for the licensing regimes specified in paragraph 3.3 of this report where the Licensing Authority has the discretion to set the fees.
- 2.3 That the Licensing Authority be at liberty to waive fees for street traders of essential goods, should the government impose further restrictions restricting their trading.

## **3. Reasons for Decision**

- 3.1 The majority of licensed premises are closed and for some licence types all activity has ceased, all non-essential street traders must not trade, and the council is keen to assist businesses in the borough during the Coronavirus outbreak.
- 3.2 This approach would be in keeping with the approach taken by the Licensing Urgency Committee in June.
- 3.3 Licence types where the venues have been required to closed, and must not trade at various times during the COVID-19 pandemic include:
  - Markets, Isolated Pitches and Exhibitions (Street Trading)
  - Massage & Special Treatment premises
  - Tables & Chairs
  - Sexual Entertainment Venues
  - Sex Shops
- 3.4 Licence types where some business continue to trade/operate include:

## Those licenced under the Licensing Act Marriage Venues

- 3.5 Many licensing regimes require applications for renewal to be made before the expiry of the existing licence, and with the fee attached. Adoption of these approaches would help businesses renew their licence, ensuring they had a valid licence in place once the business can resume normal operations. It would also help businesses by waiving some of the cost, where appropriate, and deferring others until the business re-opened.
- 3.6 The Licensing Authority continues to be approached by businesses and those representing businesses such as solicitors seeking clarification from the council on our approach and this Decision will help provide clarity.

### **4. Background**

- 4.1 The Licensing Committee has the authority to set fees for a number of licensing regimes including:

- Massage & Special Treatment Licences
- Tables & Chars Licences
- Sexual Entertainment Licences (SEVs)
- Sex Shop Licences
- Street Trading fees

#### **Massage and Special Treatment Licences**

- 4.2 Any premises wishing to provide special treatments as defined in Part II of the London Local Authorities Act 1991 must be licensed to do so. All premises licensed by the authority have a yearly licence from the date of original grant. Premises renew their licences each year before the expiry of the licence and pay a fee with the application.
- 4.3 The cost of a Special Treatment licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement cost for the 12-month period.
- 4.4 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The enforcement fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not/or will not be able to trade.
- 4.5 All these venues are currently closed due to the restrictions.

#### **Tables & Chairs Licences (T&Cs) under the Westminster Act 1999**

- 4.6 In July 2020 the Government introduced the Business and Planning Act which created Pavement Licences to streamline, on a temporary basis, how premises can apply for a Pavement licence to authorise “furniture”, including tables and chairs in order to aide social distancing for the hospitality industry.
- 4.7 Notwithstanding that many premises have continued to apply for and renew existing T&Cs licences under the City of Westminster Act 1999.

- 4.8 However, due to the restrictions, premises have been unable to use their tables & chairs and have been asking for a refund, or pro-rata reduction in the fee.
- 4.9 A trend is beginning to develop which is seeing applicants move away from the business as usual scheme towards the cheaper Pavement Licence scheme and seeking a refund.
- 4.10 The Licensing Authority is seeking a pro-rata reduction in the fees for the period the premises was unable to trade in relation to any licences granted under the Westminster Act.

#### **Sexual Entertainment Venues (SEV)**

- 4.11 Sexual entertainment venues (SEVs) are a category of sex establishments that provide relevant entertainment. Anyone wishing to provide relevant entertainment in their premises must apply to the local authority to do so under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 4.12 All premises have been closed for the purpose of relevant entertainment since April 2020.
- 4.13 The cost of a Sex Entertainment Venue licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement costs for the 12-month period.
- 4.14 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The monitoring and enforcement element of the fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not able to trade.
- 4.15 These premises have not been able to trade since the beginning of the pandemic therefore this will have the effect of waiving the full Part B fee for the year.

#### **Sex Shops**

- 4.16 Anyone wishing to sell, hire, exchange, lend display or demonstrate sex articles or other things that are intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity needs to be licensed by the local authority under Schedule 2 of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.17 All premises licensed by the Licensing Authority have a yearly licence from the date of original grant. Premises renew their licences each year before the expiry of the licence and pay a fee with the application.
- 4.18 The cost of a Sex Shop licence is split into two fees. Part A is the administration fee. Part B covers the monitoring and enforcement cost for the 12-month period.
- 4.19 The Licensing Authority recommends that upon renewal of the licence the administration fee (Part A) will be payable in full. The monitoring and enforcement fee (Part B) will be calculated on a pro-rata basis with a reduction for the months the premises was not able to trade.

### **Street Trading Licences**

- 4.20 In November and again from December to March, all non-essential street traders were required to close due to the government restriction.
- 4.21 In line with the decision of the Licensed Urgency-Committee, in June, the proposal is to waive fee for these traders for the periods, the restrictions prohibited them from trading.
- 4.22 However, should further restrictions be imposed prohibiting all street trading, including essential traders, it may be necessary to waive all street trading fees for that period.

## **5. Equalities Implications**

- 5.1 The council must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.
- 5.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 5.3 An Equalities Impact Assessment has been conducted and the council believes that these proposals do not adversely impact or unlawfully discriminate against any protected characteristics.

## 6.0 Financial Implications

6.1 The implementation of these recommendations would result in the reduction of £1,058,824 in the Licensing Authority income.

The table below show the impact of waiving or pro-rata reducing the various fees for the period that the licences may not be used. The calculations are based on no cancellations or loss of traders, and that all licenses are renewed.

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	*April	May	TOTAL
<i>Markets</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	£31,311	£17,028	£46,068	£42,064	£31,311	£14,303	<i>Trading</i>	
<i>ISP</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	£57,031	£22,090	£73,026	£63,410	£57,031	£25,109	<i>Trading</i>	
<i>Exhibitions</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	<i>Trading</i>	£3,048	£762	£3,810	£3,048	£3,048	£1,524	<i>Trading</i>	
<b>Street Trading (Total)</b>	Trading	Trading	Trading	Trading	£91,389	£39,880	£122,904	£108,522	£91,389	£40,936	Trading	£495,020
<b>T&amp;C</b>	Trading	Trading	Trading	Trading	£53,812	£24,302	£53,812	£53,812	£53,812	£19,731	Trading	£259,281
<b>MST (TOTAL)</b>	£19,140	£19,328	£51,286	£30,858	£18,026	£23,046	£19,892	£15,986	£23,046	£10,402	£7,060	£238,070
<b>SEVs</b>	£0	£0	£20,763	£2,307	£9,228	£2,307	£4,614	£2,307	£0	£2,307	£0	£43,833
<b>Sex Shops</b>	£4,524	£0	£0	£2,262	£0	£0	£11,310	£2,262	£0	£0	£2,262	£22,620
											<b>TOTAL</b>	<b>£1,058,824</b>

\* Non-essential retail closed until April 12

## **7. Legal Implications**

### **The Power to Set (Waive/defer) Fees**

- 7.1** In relation to the licensing regimes referred to in this report such as special treatment, and sexual entertainment venue applications, the Council does have the discretion to decide what fees to set in terms of the application fee and any renewal fees, as may be applicable. The Council therefore has the power to reduce or suspend the fees payable for such period as it considers appropriate during the lockdown period. Applicants would still need to submit their renewal applications on time to preserve the validity of their licence. This Licensing Authority is entitled to grant/renew licences for the periods and fees recommended in this report.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

## **BACKGROUND PAPERS**

None

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# Licensing Committee Report

Date	<b>24 March 2021</b>
Classification	<b>For General Release</b>
Title or report	<b>Amendment to the Councils Licensing Act 2003 Model Conditions</b>
Report of	<b>Director of Innovation and Change and Director of Public Protection and Licensing</b>
Decision maker	<b>Licensing Committee</b>
Wards involved	<b>All</b>
Financial summary	<b>There are no financial implications as a result of this decision.</b>
Report author and telephone	<b>Mr Kerry Simpkin, Head of Licensing, Place and Investment Policy. Tel: 07583 108491</b>

## 1. Executive Summary

- 1.1 Following the revision of the Statement of Licensing Policy in late 2020 it is necessary to make some minor amendments to the Councils pool of model conditions under the Licenisng Act 2003. Officers have taken this opportunity to undertake a review of the Councils Pool of Model Conditions under the Licensing Act 2003 and to propose amendments and updates as appropriate.
- 1.2 The Councils Policy Team, Licensing Service, Environmental Health Consultation Team, Planning Department and the Metropolitan Police Services have been involved with this review. The primary focus has been to update the Pool of Model Conditions so that they continue to be appropriate in achieving their aims in promoting the licensing objectives.
- 1.3 The Councils Policy Team have sought to change certain model conditions to reflect the recent revisions to the Councils Statement of Licensing Policy. These amendments are associated with the provision of alcohol and food. It is proposed to amend model condition 66 so that it aligns with the revised restaurant definition within the Statement of Licensing Policy, to amend condition 38 to refer to substantial table meals and to include the meaning of 'Substantial Table Meals' in conditions 38, 66, 70 and 70A.

- 1.3 The Metropolitan Police Service seek to amend model condition 1 to include a requirement for CCTV outside the premises entrance and an additional four conditions associated with body worn cameras, SIA door staff displaying their licences, ID scan on entry and for shadow licences.
- 1.4 The Councils Licensing and Environmental Health Consultation Team has proposed a number of minor amendments to model conditions. These amendments are intended to refine the conditions and are not intended to substantially change them. They have proposed additional conditions relating to delivery drivers and preventing nuisance, the requirement for a dispersal policy and its availability for inspection and the requirement to have event management plans available at large scale events.
- 1.5 The draft Pool of Model Conditions is attached to this report as Appendix 1. This document identifies, via tracked changes the proposed amendments to existing conditions and the new conditions that have been forward by the relevant service.
- 1.6 To enable the Pool of Model Conditions to be amended as an when required this report also recommends that any further changes to the Pool of Model Conditions is delegated to the Director of Public Protection and Licensing.

## **2. Recommendations**

- 2.1 It is recommended that the Licensing Committee:
  - 2.1.1 Approve the proposed amendments and additions as set out in Appendix 1, and,
  - 2.1.2 Delegate the authority to make further changes to the Pool of Model Conditions to the Director of Public Protection and Licensing.

## **3. Background**

- 3.1 The Council has adopted a pool of model conditions for Licensing Act 2003 applications which are used to encourage a consistent approach to the imposition of conditions on licences or club premises certificates. The Pool of Model Conditions document is made available for applicants, residents, responsible authorities and the Licensing Sub-Committee to use to address common concerns and ensure agreed measures remain in place. These model conditions were last amended in January 2020.
- 3.2 In December 2020 the Council adopted its revised Statement of Licensing Policy following public consultation. The revised Policy came into effect on the 7<sup>th</sup> January 2021.

## **4. Amendments to Model Conditions**

- 4.1 The definition of a restaurant within the Restaurant Policy RNT1 was amended as part of the recent revision to the Councils Statement of Licensing Policy. The revised definition was introduced to take into account the developing styles of restaurants,

particularly relating to customers self seating and the use of disposable cutlery (e.g. chopsticks).

4.2 Within the policy there are a number of references to ‘substantial table meals’. The meaning of substantial table meals is particularly relevant when considering applications that intend to provide alcohol with food and whether they are operating as a restaurant. The glossary within the Councils revised policy now includes a definition for a ‘substantial table meal’. It states:

*“A substantial table meal is a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.”*

4.3 Model condition 66 is used to ensure that applications that intend to operate as a restaurant do so and that they will not be able to amend their operation away from restaurant use without applying to vary this condition. The current wording of model MC66 reflects the previous policy’s definition of a restaurant. It is necessary to amend this condition to reflect the revised definition as set out in the current Restaurant Policy RNT1.

<b>Current Model Condition 66</b>	<b><u>Proposed Revised Model Conditions 66</u></b>
<p>The premises shall only operate as a restaurant:</p> <p>(i) in which customers are shown to their table,            (ii) where the supply of alcohol is by waiter or waitress service only,            (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,            (iv) which do not provide any takeaway service of food or drink for immediate consumption,            (v) which do not provide any takeaway service of food or drink after 23:00, and            (vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of</p>	<p><u>The premises shall only operate as a restaurant:</u></p> <p><u>(i) in which customers are shown to their tables or the customer will select a table themselves,</u>  <u>(ii) where the supply of alcohol is by waiter or waitress service only,</u>  <u>(iii) which provide food in the form of substantial tables meals that are prepared on the premises and are served and consumed at a table,</u>  <u>(iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,</u>  <u>(v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.</u></p>

<p>alcohol by such persons is ancillary to taking such meals.</p> <p>Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.</p>	<p><u>For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.</u></p> <p><u>Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.</u></p>
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4.4 It is proposed to amend model condition 38 (MC38) to include the word 'substantial' before table meal. This will align the condition with the Councils policy approach relating to restaurants. To ensure that licensees are aware of the meaning of a substantial table meal it is proposed to include the Councils definition of a substantial table meal as an informative. MC38 would be amended to:

MC 38 The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

4.5 Model conditions 70 and 70A (MC70 and MC70A) also refer to substantial table meals. It is proposed to also include the Councils definition of a substantial table meal as an informative to this condition. This approach will align these conditions with the proposed changes to MC38 and MC66 above. The condition numbering approach for these conditions do not currently match the approach taken within the Pool of Model Conditions. It is proposed that the numbering of these conditions is amended to MC70A and MC70B. MC70 and MC70A would be amended as follows:

MC70A The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to

a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

**MC70B** The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

4.6 With the regular use of private hire vehicle booking apps, such as UBER MC60, which required the licensee to provide a dedicated telephone number for a taxi or private hire vehicle service on the premises is not longer likely to be used. Therefore it is proposed to remove that condition.

#### Police proposed amendments and new conditions

4.7 The Police Licensing Team has proposed an amendment to the CCTV condition, MC01 and four additional new conditions that relate to SIA door staff, shadow licences and ID scanners.

4.8 The police propose a minor amendment to the MC01 to add a reference to the external area immediately outside the premises entrance. This addition would ensure that the area surrounding the entrance is covered by CCTV as this is often a higher risk area as this is where people may be refused entry. Most operators will already ensure that this area is covered however the additional wording will ensure that this is conditioned when it is imposed on a licence. The amended condition is shown within the draft Pool of Model Conditions document at Appendix 1.

4.9 The police have put forward two conditions that relate to Security Industry Authority (SIA) licensed door staff. These conditions are intended to ensure that the licensee has a role to play in ensuring that SIA door staff display their licences when working

and if body worn cameras are worn that the recordings are retained and made available in line with the current requirements for premises CCTV. The proposed new conditions are set out below as MC05C and MC06.

MC05C      All door supervisors will correctly display their SIA licence when on duty at the premises.

MC06      The licensee shall ensure that:

(a) All licensed SIA door staff on duty at premises shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team,

(b) All recordings shall be stored for a minimum period of 31 days with date and time stamping, and

(c) the viewing of BWV recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

- 4.10 The next new condition proposed by the police establishes the requirements for the use of ID scanners. ID scanners are widely used in nightclubs. It is a means of taking details of every entrant by scanning the customers photo ID, such as a passport, driver's licence or PASS cards. The production of Photo ID enables some confidence the customer is who they say they are, and old enough to legally purchase alcohol or gain entry. It is also a powerful deterrent to anyone who is under the legal age to purchase alcohol or who may not wish their identification known, e.g. known criminals. ID scanner technology is in most cases able to check the photo ID is legitimate at the door.
- 4.11 The police proposed condition for ID scanners has already been imposed on a number of licensed premises for some years. During this time the police have included a requirement for the ID scanner to be equipped with a camera to retain a facial image of the actual subject entering. This requirement is necessary in the event that they are using legitimate ID but it's not theirs. If an incident, such as a serious assault was to occur at a premises that has an ID Scan and associated camera the police would have an image of the suspect. This would remove the risk of the person who either lost or had their ID stolen being identified as a suspect due to the use of their ID.
- 4.12 It is understood that many people, particularly the older generation, do not routinely carry photographic ID so the police have included within the condition the provision to accept a specified number of customers without photographic ID who can be signed in by a Designated Premises Supervisor or approved manager. The condition requires the entrant to provide some form of ID e.g. a bank card; which virtually everybody carries.

4.13 The ID scan system allows an entrance record to be created without photo ID. It can be populated with an image of the ID provided e.g. a bank card, along with a photo of the customer's face. The condition allows some further exceptions to this and that private pre booked events can forgo ID scan; as their details are recorded already. The proposed new condition is condition is set out below.

MC96 (a) All customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place. The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request.

(b) The requirement in (a) above is subject to the following exceptions, namely that a maximum number of (X) guests per night may be admitted at the Managers discretion without necessarily photo ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure:

(i) The DPS shall approve in writing the names of a maximum of three managers other than him/herself who are authorised to sign in such guests.

(ii) A legible record (the signing in sheet) of those guest's name shall be retained on the premises for inspection by the licensing authority and Police for a period of 31 days. The name of the DPS approved manager authorising the admission will also be recorded by that manager.

(iii) Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and ID scan entry with a live photo shall be created.

(iv) Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Approved Manager may still permit entry. In such circumstance he shall also record the reasons for this in the signing in sheet.

(c) Notwithstanding (a) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID Scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request.

4.14 The final new condition proposed by the Police relates to shadow licences. Shadow licenses are intended to be held by landlords to protect their investment. The proposed condition would require the shadow licence holder to apply to have the condition removed by way of variation should they wish to operate the premises under that licence. This would provide the police, other responsible authorities and residents an opportunity to examine the licence to ensure that it is fit for purpose and that it will promote the licensing objectives. The proposed new condition is set out below.

MC97            The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.

Licensing and Environmental Health Consultation Teams proposed amendments and new conditions.

4.15 The Councils Licensing and Environmental Health Consultation Teams has provided a number of proposed amendments to existing model conditions as well as some additional model conditions relating to delivery drivers, dispersal policies and event management plans.

4.16 The amendments to existing conditions are minor and are identified, via tracked changes within the draft Pool of Model Conditions document at Appendix 1.

4.17 To address the concerns of residents and Councillors of the disturbance that can be caused by deliveries from premises, Licensing and the Environmental Health Consultation Teams have proposed two new conditions. The first is MC65, which seeks to prohibit deliveries, by or on behalf of the premises between a specified period, e.g. 23:00 and 08:00 hours. The second condition, MC98 establishes a requirement that delivery drivers are given specific instruction on the use of their vehicles in a responsible manner and to prevent public nuisance. These conditions are listed below:

MC65            No deliveries from the premises, either by the licensee or a third party shall take place between (23:00) and (08:00) hours on the following day.

MC98            Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

4.18 In some cases, where works are still required the Licensing Authority will impose a condition which is often referred to as a works condition. These conditions normally require the premises to be inspected by the Environmental Health Consultation Team before licensable activities can take place or capacity agreed. A new condition, MC91 has been proposed that will prohibit licensable activities in a defined area of the premises until it has been inspected and the condition removed.

MC91            The areas hatched on the layout plan may not be used for licensable activities until those areas have been assessed as satisfactory by the Environmental Health Consultation Team, at which time a new plan is submitted, and this condition is removed from the licence by the licensing authority.

4.19 Dispersal policies are an important tool to ensure that customers visiting and leaving a licensed venue are managed in a way that reduces public nuisance and crime and disorder in the area. A new condition has been proposed, MC 99 that will require the licensee to retain a copy of their dispersal policy on the premises and make it available for inspection by the Police or an authorised officer of the Council.

MC99            A copy of the premises' dispersal policy shall be available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.

4.20 At present there are no specific conditions within the Pool of Model Conditions that address large scale events. The Councils Environmental Health Consultation Team often seek conditions on the licences for such events that are very specific to their operation. However, two conditions have become more common and therefore it is proposed to add these conditions to the Pool of Model Conditions.

4.21 The first new condition relating to large scale events is MC100 which will require the premises licence holder to present their event management plan upon request to authorised officers. This condition also sets out the minimum criteria for the event management plan. The second condition is MC101, which requires the premises licence holder to ensure that they run the event in accordance with the event management plan.

MC100            The Premises Licence Holder shall present the Event Management Plan (upon request) to authorised officers at least 28 days before the first event day. The Event Management Plan shall include as a minimum:-

- (a) Covid-19 Statement (if appropriate);
- (b) Access Management Plan;
- (c) Adverse Weather Plan;
- (d) Alcohol Management Plan;
- (e) Cancellation Procedure;
- (f) CCTV Plan
- (g) Communications Plan;
- (h) Child & Vulnerable Adults Policy;
- (i) Crowd Management Plan (including Security and Stewarding Plan);
- (j) Egress Management Plan;
- (k) Emergency Evacuation procedures;
- (l) Event Control Statement of Intent;
- (m) Event Medical Plan;
- (n) Event Safety Plan including Risk Assessment;
- (o) Fire Safety Management Plan;
- (p) Ingress Management Plan;
- (q) Lighting Plan;
- (r) Noise Management Plan;
- (s) Public Liability Insurance;
- (t) Security and Crime Reduction Plan;
- (u) Site Plans;
- (v) Sustainability Statement;
- (w) Terms and Conditions of Entry;
- (x) Trader Food Management Plan;
- (y) Transport Assessment;
- (z) Waste Management Plan.

MC101      So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.

4.22 The Planning Department has reviewed the Pool of Model Conditions and at this stage have not proposed any additional model conditions. However, with the recent change in Use Classes, particularly relating to Use Class E there may be a need to add conditions in the future to address specific concerns that may have previously been addressed via a change of use planning application. The conditions will be kept under review by planning and if a model condition is felt appropriate then they will seek its inclusion in the future. It should be noted that any model condition proposed by planning will be limited to addressing the promotion of the licensing objectives and will not relate to planning matters, which cannot be considered as part of any Licensing Act 2003 licence application.

## **5. Legal Implications**

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

## **6. Staffing Implications**

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

## **7. Equalities Impact Assessment**

7.1 There are no equalities impact in the Committee determining to approve the recommendation contained within this report.

## **Appendices**

Appendix 1 – Proposed Amended Westminster City Council Licensing Act 2003 Pool of Model Conditions

**If you have any queries about this report or wish to inspect any of the background papers, please contact:**

Mr Kerry Simpkin, Head of Licensing, Place & Investment Policy  
Policy, Performance and Communications  
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## **Background Papers**

Westminster City Council Statement of Licensing Policy – January 2021



City of Westminster

# Licensing Act 2003 - Model Conditions

Amended: 27<sup>th</sup> March 2021

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# 1. Introduction

- 1.1 When deciding to grant or vary a premises licence under the Licensing Act 2003, the licensing authority may do so subject to conditions which it considers are appropriate for the promotion of the licensing objectives.
- 1.2 In carrying out its licensing functions the City Council must have regard to Guidance issued under the Act by the Secretary of State. Revised Guidance states that conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. Licensing authorities should be satisfied that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Conditions should be tailored to the particular circumstance of an individual licensed premises and determined on a case-by-case basis. Standardised conditions which ignore these individual aspects should be avoided. Under no circumstances should licensing authorities regard pools of conditions as standard conditions to be automatically imposed in all cases. Guidance also urges partnership working to promote the licensing objectives.
- 1.3 Conditions which are appropriate to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and be translated to form part of the operating schedule for the premises. This basket of model conditions has been produced to assist prospective licence holders where they consider that they would promote the licensing objectives in the circumstances of their application.
- 1.4 Once an application has been made, the police, Environmental Health service, other responsible authorities, and other persons are encouraged to engage with the applicant if they are considering making a representation to the application. This basket of model conditions has been produced to assist all parties and promote a consistent approach when proposing conditions on a premises licence.
- 1.5 **This basket of model conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence. It does not restrict any applicant, responsible authority, or other person from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives.**
- 1.6 Model conditions are listed numerically and an index is included for ease of reference. This version of the model conditions supersedes all previous versions and will continue to be updated as required and published on [www.westminster.gov.uk/licensing](http://www.westminster.gov.uk/licensing).
- 1.7 Also included, for information, is a list of the current Mandatory conditions prescribed by the Licensing Act 2003 as amended.

## 2. Model Conditions Index

<b>Issue to Address</b>	<b>Model Condition Summary</b>	<b>Model Condition Number</b>
<b>Action following serious assault</b>	- emergency services to be called	MC 92
<b>Admittance and re-admittance</b>	- prohibited after specified time (save for smokers)	MC 15
<b>Advertisements</b>	- no advertisements of the premises or events	MC 45
<b>Ancillary use of premises</b>	- licensable activities to be ancillary to the main specified use of the building	MC 86
<b>Alcohol consumption</b>	- to cease on the premises at specified time	MC 93
<b>Assault</b>	- emergency services to be called	MC 92
<b>British Summer Time</b>	- see Seasonal timings conditions	MC 84
<b>Capacity</b>	- number of persons permitted on the premises (including staff)	MC 37
<b>Capacity</b>	- number of persons permitted on the premises may be increased if toilet provision improved	MC 90B
<b>CCTV</b>	- system requirements including retention of recordings and viewing on request	MC 01
<b>CCTV</b>	- staff CCTV operator required on premises and recordings of footage available on request	MC 02
<b>Cloakroom attendant</b>	- to be present when cloakroom in use	MC 25
<b>Clubs - Private commercial</b>	- alcohol only to be supplied to members and guests	MC 88
<b>Clubs - Private commercial</b>	- list of members to be kept on premises	MC 89
<b>Collections</b>	- not permitted between (23.00) and (08.00) hours	MC 43
<b>Deliveries (to)</b>	- not permitted between (23.00) and (08.00) hours	MC 64
<b>Deliveries (from)</b>	- not permitted between (23:00) and (08:00) hours	MC 65
<b>Delivery drivers</b>	- delivery drivers shall be given clear, written instructions so as not to cause a nuisance	MC 98

<b>Dispersal policy</b>	- a copy of the dispersal policy shall be available on the premises for inspection	MC 99
<b>Door supervisors</b>	- minimum number on duty in premises	MC 05A
<b>Door supervisors</b>	- minimum number on duty at door	MC 05B
<b>Door supervisors</b>	- wearing of high visibility clothing required	MC 09
<b>Emergency services</b>	- see Action following serious assault condition	MC 92
<b>Emergency doors</b>	- required to be fitted with sensors	MC 68
<b>Entrance / exit</b>	- not permitted through specified routes	MC 10
<b>Events</b>	- the licensee shall present an event management plan (upon request) at least 28 days before the event	MC 100
<b>Events</b>	- the premises licence holder shall ensure that the event is run in accordance with the Event Management Plan	MC 101
<b>Food</b>	- substantial food and soft drinks to be available	MC 41
<b>Food</b>	- no take away hot food or drink after 23.00 hours	MC 56
<b>Fumes and smells</b>	- not to cause nuisance in the area	MC 87
<b>Function rooms</b>	- function room only to be accessed through lobby area	MC 40
<b>Function rooms</b>	- only hotel residents or pre-booked guests after (midnight)	MC 53
<b>Function rooms</b>	- all events to be pre-booked or ticketed	MC 54
<b>Function rooms</b>	- no consumption more than (30) minutes after permitted hours	MC 55
<b>Glass</b>	- glass containers prohibited	MC 04
<b>Glass</b>	- only non-glass drinking vessels may be provided except for private approved events	MC 69
<b>Hotels</b>	- see Function rooms conditions	
<b>Hypnotism</b>	- not permitted on the premises	MC 52
<b>ID Scan</b>	- all customers shall have their ID scanned on entry	MC 96
<b>Incident log</b>	- log of all relevant incidents to be kept	MC 49

<b>Litter</b>	- see Pavement cleansing condition	MC 42
<b>Loudspeakers</b>	- see Sound escape conditions	MC 13
<b>Members clubs</b>	- see Clubs – Private Commercial conditions	
<b>Noise</b>	- see Sound escape conditions	
<b>Notices</b>	- see Sound escape conditions	
<b>New Years Eve</b>	- see Seasonal timings conditions	MC 83
<b>Odours and fumes</b>	- not to cause nuisance in the area	MC 87
<b>Off sales of alcohol</b>	- no sales for consumption off the premises permitted	MC 16
<b>Off sales of alcohol</b>	- only permitted in sealed containers	MC 17
<b>Off sales of alcohol</b>	- only to be consumed outside the building by persons seated at tables	MC 18
<b>Off sales of alcohol</b>	- only permitted when ancillary to the sale of take away food	MC 36
<b>Off sales of alcohol (private area outside premises)</b>	- only permitted to outside tables and chairs when ancillary to food and with waiter service	MC 70A
<b>Off sales of alcohol (highway authorised for table and chairs)</b>	- only permitted to outside tables and chairs authorised on the highway when ancillary to food and with waiter service	MC 70B
<b>Off sales of alcohol (shops)</b>	- cabinets locked to prevent access to alcohol out of hours	MC 28
<b>Off sales of alcohol (shops)</b>	- no beer, lager cider or spirit mixtures over 5.5% ABV to be sold	MC 29
<b>Off sales of alcohol (shops)</b>	- no single cans or bottles of beer, lager cider or spirit mixtures to be sold	MC 30
<b>Off sales of alcohol (shops)</b>	- no miniature bottles of spirits to be sold	MC 85
<b>Off sales of alcohol (shops)</b>	- sales area to be no more than (15% ) of premises to be used for alcohol	MC 31
<b>Off sales of alcohol (shops)</b>	- no self service of spirits	MC 32
<b>Off sales of alcohol (shops)</b>	- signage to be prominently displayed of times alcohol available	MC 33

<b>Off sales of alcohol (shops)</b>	- refusals of alcohol sales to be recorded	MC 48
<b>Off sales of alcohol (shops)</b>	- till prompts to be activated on all alcohol sales	MC 27
<b>Outside area</b>	- drinking and smoking to be supervised to prevent nuisance and obstruction	MC 71
<b>Pavement cleansing</b>	- sweeping and washing of pavement and storage of waste	MC 42
<b>Personal licence holder</b>	- required to be present when alcohol sold	MC 03
<b>Private clubs</b>	- see Clubs – Private Commercial conditions	
<b>Private functions or events</b>	- alcohol only to be consumed by persons at private events	MC 94
<b>Proof of age</b>	- challenge 21 or challenge 25 scheme to be operated	MC 47
<b>Public safety</b>	- safety arrangements to be maintained	MC 72
<b>Public safety</b>	- means of escape maintained	MC 73
<b>Public safety</b>	- emergency doors available at all material times	MC 74
<b>Public safety</b>	- emergency doors maintained effectively self closing	MC 75
<b>Public safety</b>	- edges of treads of steps and stairways to be conspicuous	MC 76
<b>Public safety</b>	- curtains and hangings not to obstruct emergency signs or equipment	MC 77
<b>Public safety</b>	- fabrics etc. to be non-combustible	MC 78
<b>Public safety</b>	- certificates to be submitted to licensing authority	MC 79
<b>Public safety</b>	- flashing or bright lights not to cause nuisance	MC 80
<b>Public safety</b>	- notice of use of special effects to be given to council	MC 51
<b>Pubwatch</b>	- requirement to join local Pubwatch or similar and radio scheme if operating	MC 62
<b>Queuing</b>	- only permitted in identified designated area	MC 63
<b>Queues</b>	- to be orderly and supervised	MC 26
<b>Restaurant</b>	- premises must operate as restaurant as defined in policy	MC 66

<b>Restaurant</b>	- alcohol must be ancillary to substantial table meals	MC 38
<b>Restaurant</b>	- alcohol must be by waiter/waitress service	MC 39
<b>Restaurant</b>	- permits use of bar area for diners before taking a meal (see MC 38 / MC 66)	MC 60
<b>Restaurant</b>	- see Off sales of alcohol conditions	
<b>Search</b>	- required on entry and re-entry	MC 08
<b>Search arch</b>	- use required after specified time	MC 07
<b>Seasonal timings (New Years Eve)</b>	- extension of licensable activities into New Year's Day.	MC 83
<b>Seasonal timings (British Summer Time)</b>	- extension of 1 hour for change to British Summer Hour	MC 84
<b>Sexual entertainment</b>	- no nudity or striptease unless SEV licensed	MC 44
<b>Shadow licence</b>	- the shadow licence will not take effect when the current licence is in operation	MC 97
<b>Smells</b>	- see Odours and fumes condition	MC 87
<b>Smoking notice</b>	- see Sound escape conditions	
<b>Smoking</b>	- customers limited to specific smoking area	MC 67
<b>Sound escape</b>	- no noise or vibration to escape from premises	MC 12
<b>Sound escape</b>	- no loudspeakers in lobby	MC 13
<b>Sound escape</b>	- windows and doors to be kept closed	MC 14
<b>Sound escape</b>	- notice requiring patrons to be quiet	MC 21
<b>Sound escape</b>	- notice requiring smokers to be quiet	MC 23
<b>Sound limiting device</b>	- installation and operation to satisfaction of EH officer	MC 11
<b>Special effects</b>	- notice of use given to council	MC 51
<b>Sporting events</b>	- special arrangements to control large crowds on specified days	MC 59
<b>Surrender of licence</b>	- surrender and/or made incapable of resurrection	MC 61
<b>Tables and chairs</b>	- to be rendered unusable after specified time	MC 19

<b>Tables and chairs</b>	- to be removed from outside area by specified time	MC 20
<b>Take away food</b>	- no sales for consumption off the premises	MC 56
<b>Telephone contact number</b>	- made available to local residents and businesses	MC 24
<b>Temporarily leaving</b>	- customers temporarily leaving limited to specific number	MC 22
<b>Temporarily leaving</b>	- no glass to be taken out of the premises	MC 57
<b>Till prompts</b>	- to be activated on all alcohol sales	MC 27
<b>Touting</b>	- no payments to be made for bringing persons to the premises	MC 46
<b>Touting</b>	- prohibited within the area of the premises	MC 58
<b>Waiter service</b>	- alcohol must be by waiter/waitress service	MC 39
<b>Waste</b>	- not to be left out more than 30 minutes before scheduled collection	MC 34
<b>Waste</b>	- not to be placed in outside areas between (23.00) and (08.00) hours	MC 35
<b>Waste</b>	- not permitted to be collected between (23.00) and (08.00) hours	MC 43
<b>Works</b>	- licence has no effect until works meet DSA technical standards	MC 50
<b>Works</b>	- licence has no effect until premises assessed as satisfactory	MC 81
<b>Works</b>	- variation has no effect until premises assessed as satisfactory	MC 82
<b>Works</b>	- licence has no effect until capacity agreed with EH	MC 90A
<b>Works</b>	- hatched area on the plan cannot be used until assessed as satisfactory by EH	MC 91

### 3. Model Conditions in Numeric order

- MC01 (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.
- (b) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
- (c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
- (d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
- (e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
- MC02 A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- MC03 There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
- MC04 No drinks shall be served in glass containers at any time.
- MC05A A minimum of **(X)** SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business and they must correctly display their SIA licence(s) when on duty so as to be visible.
- MC05B At least **(2)** SIA licensed door supervisors shall be on duty at the entrance of the premises at all times whilst it is open for business and they must correctly display their SIA licence(s) when on duty so as to be visible.
- MC05C All door supervisors will correctly display their SIA licence so as to be visible when on duty at the premises.
- MC06 The licensee shall ensure that:
- (a) All licensed SIA door staff on duty at premises shall be equipped with Body Worn Video (BWV), capable of recording audio and video in any light condition as per the minimum requirements of the Westminster Police Licensing Team.
- (b) All recordings shall be stored for a minimum period of 31 days with date and time stamping, and
- (c) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
- MC07 No patrons shall be admitted or re-admitted to the premises after **(21.00)** hours unless they have passed through a metal detecting search arch and, if the search arch is activated or at the discretion of staff, then physically searched, which will include a 'pat down search' and a full bag search.

- MC08 All persons entering or re-entering the premises shall be searched by a SIA licensed member of staff and monitored by the premises CCTV system.
- MC09 All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests.
- MC10 Customers shall not enter or leave the premises from / by (*insert specific entrances or exits*), except in the event of an emergency.
- MC11 A noise limiter must be fitted to the musical amplification system and maintained in accordance with the following criteria:
- (a) the limiter must be set at a level determined by and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses,
  - (b) The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of the authorised Environmental Health Officer and access shall only be by persons authorised by the Premises Licence holder,
  - (c) The limiter shall not be altered without prior written agreement from the Environmental Health Consultation Team,
  - (d) No alteration or modification to any existing sound system(s) should be affected without prior knowledge of the Environmental Health Consultation Team, and
  - (e) No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
- MC12 No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- MC13 Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
- MC14 All windows and external doors shall be kept closed after **(21:00)** hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- MC15 There shall be no admittance or re-admittance to the premises after **(23.00)** hours except for patrons permitted to temporarily leave the premises (e.g. to smoke, make a phone call).
- MC16 There shall be no sales of alcohol for consumption off the premises after **(23.00)** hours.
- MC17 All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
- MC18 Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- MC19 All outside tables and chairs shall be rendered unusable by **(23.00)** hours each day.
- MC20 All tables and chairs shall be removed from the outside area by **(23.00)** hours each day.
- MC21 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

- MC22 Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall be limited to **(X)** persons at any one time.
- MC23 Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- MC24 A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
- MC25 An attendant shall be on duty in the cloakroom during the whole time that it is in use.
- MC26 The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
- MC27 All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- MC28 Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the premises (including alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
- MC29 No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles and cans.
- MC30 No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
- MC31 No more than **(15)**% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
- MC32 There shall be no self-selection of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
- MC33 Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
- MC34 All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- MC35 No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between **(23.00)** hours and **(08.00)** hours on the following day.
- MC36 Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to food that is available to take-away for immediate consumption [and/or delivery]..

- MC37 The number of persons permitted in the premises at any one-time (excluding staff) shall not exceed (**X**) persons.
- MC38 The supply of alcohol at the premises shall only be to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.
- For the purpose of this condition a 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.
- MC39 The supply of alcohol shall be by waiter or waitress service only.
- MC40 Admission to the (*specified function room*) shall be through the premises lobby area only
- MC41 Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- MC42 During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- MC43 No collections of waste or recycling materials (including bottles) from the premises shall take place between (**23.00**) and (**08.00**) hours on the following day.
- MC44 [Other than in hotel bedrooms] There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
- MC45 No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or be distributed to the public.
- MC46 There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
- MC47 A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- MC48 A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

- MC49 An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (c) any complaints received concerning crime and disorder
  - (d) any incidents of disorder
  - (e) all seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system, searching equipment or scanning equipment
  - (g) any refusal of the sale of alcohol
  - (h) any visit by a relevant authority or emergency service.
- MC50 No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
- MC51 Any special effects or mechanical installations shall be arranged, operated and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the licensing authority where consent has not previously been given:
- dry ice and cryogenic fog
  - smoke machines and fog generators
  - pyrotechnics including fireworks
  - firearms
  - lasers
  - explosives and highly flammable substances.
  - real flame
  - strobe lighting.
- MC52 No person shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased. NOTE: (1) This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.
- MC53 In relation to the (**specified function room**) there shall be no admission after (**midnight**) other than to:
- (1) residents of the hotel and their bona fide guests, or
  - (2) persons attending a pre-booked function.
- MC54 Licensable activities at events in the (specified function room) shall only be provided at pre-booked ticketed events.

- MC55 With the exception of residents and their bona fide guests, no alcohol shall be consumed more than **(30)** minutes after the permitted terminal hour for the supply of alcohol
- MC56 There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours.
- MC57 Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers with them.
- MC58 No person on behalf of the premises or on behalf of a person carrying or attempting to carry on a licensable activity shall cause, permit, employ or allow, directly or indirectly, whether on payment or otherwise, any person(s) to importune, solicit or tout members of the public on any public highway within the specified area outlined below for the purpose of bringing customers to the premises. The distribution of leaflets or similar promotional material is also prohibited within the specified area.

For the purpose of this section:

'Directly' means - employ, have control of or instruct.

'Indirectly' means - allowing / permitting the service of or through a third party.

'Specified' Area' means - the area encompassed within (insert name of boundary roads.)

- MC59 Prior to any "designated sporting event" (as defined in the Sporting Events Control of Alcohol Act 1985) the premises licence holder shall ensure that;
- (i) Alcohol sales in respect of cans of beer or cider are limited to no more than 4 cans per person for a minimum of four hours before the commencement of the relevant designated sporting event;
  - (ii) No sales of alcohol in bottles or glass containers are made in the period four hours before the commencement of the designated sporting event;
  - (iii) Alcohol sales cease for a period of one hour immediately before the commencement of the relevant designated sporting event;
  - (iv) On any day where there is a relevant designated sporting event taking place, the premises will not externally advertise as a result of a local store promotion the availability of beer or cider in such a way as to be likely to be the sole inducement to attract persons to the premises who are either attending the designated sporting event or in the vicinity of the premises as a result of the designated sporting event;
  - (v) All members of staff working at the premises are informed of this condition prior to taking up employment;
  - (vi) On the day of the relevant designated sporting event, upon the direction of a police officer, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the police or until the relevant designated sporting event has finished.
- MC60 Notwithstanding condition (MC 38 / MC66), alcohol may be supplied and consumed prior to their meal in the bar area (***designated on the plan***), by up to a maximum at any one time, of [***Enter number of persons or percentage of persons***] persons dining at the premises.

MC61 No licensable activities shall take place at the premises until premises licence **xxxx/xxxxxx/xxxx** (or such other number subsequently issued for the premises) has been surrendered [and is incapable of resurrection].

MC62 As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme if available.

MC63 Queuing outside the premises shall be restricted to a designated area located at (**specify location**)

MC64 No deliveries to the premises shall take place between (**23.00**) and (**08.00**) hours on the following day.

MC65 No deliveries from the premises, either by the licensee or a third party shall take place between (23:00) and (08:00) hours on the following day.

MC66 The premises shall only operate as a restaurant

- (i) in which customers are shown to their table or the customer will select a table themselves,
- (ii) where the supply of alcohol is by waiter or waitress service only,
- (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table,
- (iv) which do not provide any takeaway service of food or drink for immediate consumption off the premises,
- (v) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

MC67 Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as (**specify location**).

MC68 All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.

MC69 (a) All drinking vessels used in the venue shall be made from a sustainable material other than glass. All drinks in glass bottles are to be decanted into a non-glass containers or non-glass carafes prior to being served, with the exception of

champagne or bottles of spirits with a minimum size of 70cl supplied by waiter/waitress service to tables. Staff shall clear all empty champagne and spirit bottles promptly from the tables. Customers shall not be permitted to leave their table carrying any such glass bottles or drink directly from the bottle.

- (b) Notwithstanding (a) above, with the written agreement of the Westminster Licensing Police, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the (*specified area*).

MC70A The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person seated taking a substantial table meal there and for consumption by such a person as ancillary to their meal.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

MC70B The sale and supply of alcohol for consumption off the premises shall be restricted to alcohol consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial table meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service only.

For the purpose of this condition 'Substantial Table Meal' means – a meal such as might be expected to be served as the main midday or main evening meal, or as a main course at either such meal and is eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure servicing the purposes of a table.

MC71 The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are properly supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

MC72 The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

MC73 The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

MC74 All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.

- MC75 All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
- MC76 The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
- MC77 Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
- MC78 All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
- MC79 The certificates listed below shall be submitted to the licensing authority upon written request.
- (a) Any permanent or temporary emergency lighting battery or system
  - (b) Any permanent or temporary electrical installation
  - (c) Any permanent or temporary emergency warning system
- MC80 Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
- MC81 No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
- MC82 The variation of this premises licence (***state the licensing reference number***) to include the (***state the works requested and plans reference***) will have no effect until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from this licence by the licensing authority.
- MC83 The premises may remain open for the sale of alcohol and the provision of late-night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
- MC84 On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00 hours.
- MC85 No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
- MC86 The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the (premises/building) as (offices / delicatessen / museum / theatre / hairdressers / etc).
- MC87 No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

- MC88 Alcohol may only be sold for consumption by members of a private club and their bona fide guests (not exceeding **(4)** guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.
- MC89 A list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.
- MC90A No licensable activities shall take at the premises until the capacity of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacity so determined.
- MC90B The number of persons accommodated at the premises (excluding staff) shall not exceed **(insert number)**. Subject to the sanitary accommodation being improved to the satisfaction of the Council's Environmental Health Officer, the capacity may be increased to such number as may be agreed with the licence holder. The actual capacity will only increase when an appropriate condition to that effect has replaced this condition on the licence.
- MC91 The areas hatched on the layout plan may not be used for licensable activities until those areas have been assessed as satisfactory by the Environmental Health Consultation Team, at which time a new plan is submitted, and this condition is removed from the licence by the licensing authority.
- MC92 In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
- (a) The police (and, where appropriate, the London Ambulance Service) are called without delay;
  - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
- MC93 The consumption of alcohol on the premises shall cease at **(insert hour)**.
- MC94 Alcohol shall only be sold for consumption by persons attending a pre-booked and bona fide private function or event to which members of the public are not admitted. A register of persons attending the event shall be kept for a minimum period of 31 days at the premises and made available for immediate inspection by police or an authorised officer of the Council throughout the entire 31-day period.
- MC95 Notwithstanding the mandatory condition imposed by Section 20 of the Licensing Act 2003 (above) the exhibition of films pursuant to this licence will be restricted to films that have been classified as Universal (U) or Parental Guidance (PG) by the film classification body designated under Section 4 of the Video Recordings Act 1984.

MC96 (a) All customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place. The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police and the local authority upon request.

(b) The requirement in (a) above is subject to the following exceptions, namely that a maximum number of (X) guests per night may be admitted at the Managers discretion without necessarily photo ID being scanned and recorded. The admission of such guests however shall be in accordance with the following procedure:

(i) The DPS shall approve in writing the names of a maximum of three managers other than him/herself who are authorised to sign in such guests.

(ii) A legible record (the signing in sheet) of those guest's name shall be retained on the premises for inspection by the licensing authority and Police for a minimum period of 31 days. The name of the DPS approved manager authorising the admission will also be recorded by that manager,

(iii) Guests shall be required to produce some form of ID such as a bank card (or emailed electronic photo ID) and ID scan entry with a live photo shall be created.

(iv) Where there are appropriate reasons for a guest not to be able to produce ID and be subject to ID scan, the Approved Manager may still permit entry. In such circumstance he shall also record the reasons for this in the signing in sheet.

(c) Notwithstanding (a) above, patrons who are attending a pre-booked private event at the premises do not need to have their ID Scanned on entry and instead a written guest list shall be held at reception for the event, and will be retained for 31 days after the event for inspection by the police and responsible authorities upon request.

MC97 The shadow licence will not take effect when the current licence is in operation, or it lapses, is surrendered or revoked.

MC98 Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.

MC99 A copy of the premises' dispersal policy shall be made readily available at the premises for inspection by a police officer and/or an authorised officer of Westminster City Council.

MC100 The Premises Licence Holder shall present the Event Management Plan (upon request) to authorised officers at least 28 days before the first event day. The Event Management Plan shall include but not limited to the following:-

- (a) Covid-19 Statement (if appropriate);
- (b) Access Management Plan;
- (c) Adverse Weather Plan;
- (d) Alcohol Management Plan;
- (e) Cancellation Procedure;
- (f) CCTV Plan
- (g) Communications Plan;
- (h) Child & Vulnerable Adults Policy;
- (i) Crowd Management Plan (including Security and Stewarding Plan);

- (j) Egress Management Plan;
- (k) Emergency Evacuation procedures;
- (l) Event Control Statement of Intent;
- (m) Event Medical Plan;
- (n) Event Safety Plan including Risk Assessment;
- (o) Fire Safety Management Plan;
- (p) Ingress Management Plan;
- (q) Lighting Plan;
- (r) Noise Management Plan;
- (s) Public Liability Insurance;
- (t)- Security and Crime Reduction Plan;
- (u) Site Plans;
- (v) Sustainability Statement;
- (w) Terms and Conditions of Entry;
- (x) Trader Food Management Plan;
- (y) Transport Assessment;
- (z) Waste Management Plan.

MC101 So far as is reasonably practicable the Premises Licence Holder shall ensure that the event is run in accordance with the Event Management Plan.

## 4. Informatives and Mandatory Conditions

The following do not form part of the Model Conditions but are provided to advise on matters related to applications.

### **Informative relating to planning permission**

- i1 The granting of this licence or any variation to it is without prejudice to any requirement to obtain planning permission or a licence for the use of tables and chairs on a street.

### **Mandatory Conditions prescribed by the Licensing Act 2003 as amended**

#### Mandatory conditions where the licence authorises the sale of alcohol

Alcohol sales authorised under a Premises Licences

(Note: Conditions 4, 5, and 7 relate to on-sales only)

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
  
- 5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
  
- 6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
  
- 7. The responsible person must ensure that –
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8.
  - (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
  - (2) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (i) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (ii) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### Supply of alcohol under a Club Premises Certificate

The mandatory conditions 4 to 8 above will apply. If the club premises certificate authorises the supply of alcohol for consumption off the premises, the following three mandatory conditions must also be included:

1. The supply of alcohol for consumption off the premises must be made at a time when the premises are open for the purposes of supplying alcohol to members of the club for consumption on the premises.

2. Any alcohol supplied for consumption off the premises must be in a sealed container.
3. Any alcohol supplied for consumption off the premises must be made to a member of the club in person.

#### Supply of alcohol from community premises

The following mandatory condition will replace the first three mandatory conditions above when an application is made for a premises licence by the management committee of community premises and the licensing authority also grants an application for this alternative licence condition to be included in the licence:

1. Every supply of alcohol under the premises licence must be made or authorised by the [management committee / management board / board of trustees].

#### Mandatory condition when a premises licence or a club premises certificate authorises the exhibition of films

9. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.

#### Mandatory Condition relating to door supervision which only applies where a premises licence includes a condition that one or more individuals must be at the premises to carry out a security activity

10. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

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City of Westminster

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City of Westminster

## Licensing Committee

<b>Item No:</b>	
<b>Date:</b>	24 March 2021
<b>Classification:</b>	For General Release
<b>Title of Report:</b>	Licensing Appeals
<b>Report of:</b>	Bi-Borough 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>	Heidi Titcombe Principal Solicitor for the Bi-Borough Director of Law
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## **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 There has been two new appeals since July 2020 as specified below, the first relating to the Wardour which was withdrawn and the second relating to Scotch has just been received.

### **3.2 100 Wardour, Ground Floor, Wardour Street London, W1F 0TN – withdrawn**

3.3 On 1 March 2019 a review application was issued by five local residents against 100 Wardour Street Limited, on the grounds that noise from live bands and the DJ was escaping from the Premises into their homes. The review was supported by Environmental Health, the Licensing Authority and six other local residents.

3.4 The Licensing Sub-Committee decided to adjourn the review application for three months to enable Environmental Health to carry out various sound tests from different flats to test sound equipment, including a noise limiter installed in the Premises, in order that a permanent solution could be found to prevent noise escaping into the residents' homes.

3.5 When the review hearing reconvened on 12 November 2019, the Licensing Sub-Committee decided to attach conditions to the licence to promote the prevention of public nuisance licensing objective.

3.6 Mr David Steele, one the residents, attempted to appeal the Decision in December 2019. However, the Court did not issue the appeal at that stage and the Council only became aware of the appeal in July 2020. It took some time to find out about the status of this appeal during the lockdown and Poppleston and Allen, representing the Premises have been liaising with Mr Steele with a view to resolving any outstanding noise coming from the Premises. They also contended that the appeal was not valid because it had not been issued in time and that issue was going to be debated at the Case Management hearing set for 16 December 2020 at Westminster Magistrates' Court. However, Mr Steele agreed to withdraw his appeal and has paid the Council £3,300 towards its legal costs on 16 December 2020 after the sealed Consent Order was received from the Court.

### **3.7 Scotch, Basement and Ground Floor 13 Mason's Yard, London SW1Y 6BU – new appeal pending**

3.8 Ground Support Equipment DMCC ("Applicant") applied for the grant of a new shadow licence in respect of the above Premises on the basis that the Applicant an interest in the business. There is a commercial dispute between Mr Lalic, the current manager of the Premises and the Applicant. The Applicant

purchased the Premises in 2012 for £280,000 without any contribution from Mr Lalic. He then refurbished the Premises at a cost of £675,000. Mr Lalic was a salaried employee and the Applicant received an income from the property. The Applicant and Mr Lalic operated the business together until relations had broken down. The Applicant wanted to protect his financial investment and sought the shadow licence.

- 3.9 The Applicant was seeking a shadow licence for the same hours and subject to the same conditions as the existing licence, namely:

Sale by Retail of Alcohol (On/Off Sales)

Monday to Saturday: 11:00 to 04:45 hours

Sunday: 12:00 to 22:30 hours

Live Music and Performance of Dance (Indoors)

Monday to Saturday: 09:00 to 05:00 hours

Sunday: 09:00 to 03:00 hours

Recorded Music (Unrestricted) (Indoors)

Monday to Sunday: 00:00 to 23:59 hours

Late Night Refreshment (Indoors)

Monday to Saturday: 23:00 to 05:00 hours

Sunday: 23:00 to 03:00 hours.

Together with seasonal variations for all licensable activities on New Year's Eve and New Year's Day

Hours Premises are open to the Public

Monday to Saturday: 09:00 to 05:30 hours

Sunday: 09:00 to 03:30 hours.

- 3.10 The application was opposed by 21 residents on the grounds of the prevention of public nuisance.

- 3.11 The Licensing Sub-Committee decided to refuse the application on 4 February 2021 on the grounds there was insufficient evidence in the operating plan to demonstrate how the Applicant would operate the business for the hours requested without undermining the licensing objectives. The Applicant has appealed the decision to Westminster Magistrates' Court. We are awaiting receipt of the summons when a hearing will be arranged to set the directions for the exchange of evidence and the hearing of the case. Members will be updated as the case progresses.

## **4. JUDICIAL REVIEWS**

### **4.1 Hemming and others v Westminster City Council**

- 4.2 Members will be aware that Hemming and a number of other proprietors of sex establishments in Soho have challenged the fees charged by Westminster for sex shop licences. They have alleged that the Council was only entitled to recover the administrative costs of processing the application when assessing the licence fee, and not the costs of monitoring and enforcing the whole

licensing regime against unlicensed and licensed operators.

4.3 The High Court and the Court of Appeal both held that the European Directive prevented Westminster from recovering the fees for monitoring and enforcing the licensing regime, against licensed and unlicensed operators. Westminster were therefore ordered to repay the element of the fees which related to monitoring and enforcement costs.

4.4 Westminster appealed to the Supreme Court who decided after various hearings on 19 July 2017 that Westminster could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster (including the costs of enforcement against unlicensed operators).

4.5 An application has been made to the Administrative Court to recover the costs payable to the Council for monitoring and enforcing the licensing regime, but this has been delayed pending the COVID-19 pandemic.

## **5. RECORD OF APPEALS**

5.1 To date, 478 appeals have been received since the Council took over the licensing functions from the Magistrates' Court in February 2005. 477 of these appeals have been heard / settled / withdrawn etc. as shown below:

- 1 pending
- 59 dismissed
- 16 allowed
- 13 allowed only in part
- 166 settled
- 223 withdrawn.

## **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. Equalities Implications**

8.1 There are no direct equalities implications arising 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 Heidi Titcombe,  
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