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Statement of Licensing Policy 2016

This Statement of Licensing Policy of Westminster City Council, the Licensing Authority for the City of Westminster, was prepared under Section 5 of the Licensing Act 2003 with regard to Revised Guidance issued under section 182 of the Licensing Act 2003. Revisions to the policy and its publication

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Licensing Policy vision statement

“We want to make sure that Westminster continues to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit.”

FOREWORD



By Councillor Aiken to follow

FOREWORD

By Metropolitan Police Commander to follow

OVERVIEW

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Strategy

- 1.1 The council has wide experience in regulating entertainment. Licensed entertainment in Westminster contributes to London's appeal to tourists and visitors as a vibrant city. The scale, the diversity and the concentration of entertainment in the West End are unique. The City of Westminster has more licensed premises than any other local authority in Britain; over 3,100. These include nearly 500 pubs, bars and wine bars, over 1,000 restaurants licensed to serve alcohol, 39 theatres and 136 night clubs and dance venues. There are many other premises which are licensed which include other cultural venues and shops. The entertainment industry brings cultural and financial benefits to the city, with the night-time element alone being estimated as having over 14,000 firms with turnover of more than £24 billion and employing over 220,000 people. The council believes that good management of its vibrant entertainment industry and of the street environment within which it operates is essential to the continued success of central London and attracting a wide range of people who want to come here to work, to visit and to live.
- 1.2 The policy sets out how the council as a Licensing Authority promotes the licensing objectives in the Licensing Act 2003. Changes to this Statement of Licensing Policy were approved by the Council on 11th November 2015 (see Appendix 1).

The licensing objectives:

- prevention of crime and disorder
- public safety
- prevention of public nuisance

- protection of children from harm.

Section 4(2) of the Licensing Act 2003

1.3 The Licensing Authority must have regard to these licensing objectives in carrying out its licensing functions under the Licensing Act 2003. They embody concerns that the council acknowledged in exercising its licensing powers under previous legislation. It has had regard to Revised Guidance issued by the Secretary of State in March 2015 in drawing up this Revised Statement of Licensing Policy. If the council acting as the Licensing Authority departs from this Guidance, it will give reasons as suggested in paragraph 1.9 of Revised Guidance. It will always consider the circumstances of each application. It may make exceptions to its own policies where it is appropriate to do so in order to promote the licensing objectives and it will give reasons for doing this. The policies are intended to strike a reasonable balance between different and sometimes competing aims in promoting the licensing objectives. The introduction to Revised Guidance (paragraph 1.5) states that the legislation also supports a number of other key aims and purposes which are vitally important. These include giving the police and licensing authorities powers to effectively manage the night time economy; recognising the important role that licensed premises play in local communities; reflecting the needs of local communities and making the most appropriate strategies for their local area; and encouraging greater community involvement and giving local residents the opportunity to have their say on decisions which may affect them. The council has shaped its policies very much in line with these aims. It gives high priority to the development of greater diversity in the types of entertainment and cultural activity on offer and in the age groups attracted to them, and also to its long standing policies of increasing the resident population of the city and ensuring that it enjoys a good quality of life. By doing this it furthers the licensing objectives of prevention of crime and disorder and public nuisance. The council wishes to discourage drunkenness and to encourage the provision of more seating in premises which serve alcohol for people to sit and enjoy a drink and order food by table service, in place of open bar space which caters for high volume vertical drinking as referred to in Revised Guidance

(paragraph 10.23 and 10.24). It is a key feature of the Statement of Licensing Policy that its policies are intended to encourage change in the composition of Westminster's night-time economy so that it becomes more widely based and less dominated by alcohol led premises, and thus promotes the licensing objectives. The effective dispersal of customers both from premises and from the Cumulative Impact Areas is regarded by the licensing authority as a key principle of its policy to promote the licensing objectives of the prevention of crime and disorder, public nuisance, and public safety.

- 1.4 The council, acting as the Licensing Authority, has discretion on whether to grant applications for licences (see Appendix 2) and to impose conditions on granting and reviewing licences, only when representations relevant to the licensing objectives are made by "responsible authorities" or "other persons" (including local residents and businesses) (see Glossary). Where no relevant representations are received it is the duty of the Licensing Authority to grant a licence subject only to conditions consistent with the operating schedule and the mandatory conditions under the Licensing Act 2003. See Revised Guidance (paragraph 1.15). This Statement of Licensing Policy generally reflects the council's understanding of the concerns of these responsible authorities at the time it was revised. However the responsible authorities are not bound by this Statement and can make any representations if they are concerned over the effect of the grant of any application on the licensing objectives. The council can advise potential applicants if activities require licences. Further information can be accessed on the council's website; <https://www.westminster.gov.uk/licensing>
- 1.5 This Statement of Licensing Policy does not undermine the right of any individual to apply under the terms of the Act for a variety of permissions, and have any such application considered on its individual merits (Revised Guidance, paragraph 13.10). The way that the council has delegated authority to determine applications is shown at Appendix 3 (Revised Guidance, paragraph 13.61). This Statement of Licensing Policy does not override the right of any person to make representations on an application or seek a review of a licence or certificate, where provision has been made for them to do so in

the Licensing Act 2003 (Revised Guidance, paragraph 13.11). See Appendix 4 on reviews of premises licences.

Related strategies and initiatives

- 1.6 The council has adopted a variety of strategies to protect and promote Westminster's status as a world class city. These are outlined in Appendix 5. The council has taken initiatives to prevent anti-social behaviour, noise, and degradation of the street environment. These problems are often associated with late night entertainment. A combination of licensing and planning powers, and effective management of the street environment, is required to tackle these problems (see Amended Guidance, paragraphs 13.40 and 13.56).
- 1.7 The local planning authority is a responsible authority and can make representations on applications. However, it can only make representations related to the licensing objectives. Nuisance and crime and disorder are shared concerns of planning and licensing. Planning concerns relating to the character and function of an area and aspects of amenity that fall short of being a public nuisance are outside the scope of the licensing regime. For example, a large restaurant might be unacceptable in a conservation area characterised by small retail units on planning grounds of character and function, whereas licensing grounds of public nuisance might not apply.
- 1.8 The absence of lawful planning use for an activity is not of itself a matter for licensing. The Licensing Sub Committee and the applicants may be informed of the planning status of premises where licences are sought, by providing this information in reports on licensing applications. Only in exceptional cases has the council as the planning authority made representations as a responsible authority. Whether the premises have planning permission or whether a lawful use exists are matters that are taken up separately by the planning authority.
- 1.9 The council as a planning authority has planning policies which apply differently in the Cumulative Impact Areas and other areas. These are policies which relate to planning concerns and are related to development, including

the use of buildings and land. They contain criteria related to sizes of premises and the use of premises rather than to individual licensable activities.

- 1.10 Planning remains the regime that is directed at the development of premises and their overall use. Licensing is the regime that is directed at individual licensable activities and their management and their impact on the licensing objectives. The granting of a planning permission for premises, or finding that a premises enjoy a lawful use, does not constrain the council as Licensing Authority from considering in detail the licensable activities, their management and conditions appropriate to them.
- 1.11 The council regards licensing as the most appropriate tool to ensure that the licensing objectives are promoted through premises being properly managed and operated and, where necessary, the types, number, location and hours of premises being controlled when this cannot be done adequately or appropriately through other legislation. The council regards licensing as a key means of controlling nuisance and anti-social behaviour, and part of a holistic approach to the management of the evening and night-time economy (Revised Guidance, paragraph 13.13).
- 1.12 The council recognises the links between excessive alcohol consumption and poor health. As part of a wider package of initiatives the council is aiming to tackle the negative impacts associated with alcohol consumption through the Westminster Alcohol Strategy (see Appendix 5).
<http://westminstercitypartnership.org.uk/Partnerships/Safer%20Westminster/Safer%20Westminster%20Resources/Tackling%20Alcohol%20Misuse%20in%20Westminster%202006%20-%202009.pdf>

Other relevant legislation

- 1.13 Many other statutory requirements apply to licensed premises such as fire safety, planning, building control, public health, food hygiene, and trading standards.
- 1.14 The council must also have regard to its duties under Section 17 of the Crime and Disorder Act 1998, to prevent crime and disorder. These regulatory

regimes will be properly separated as described in Revised Guidance (paragraph 13.57). This suggests that applications for premises licences for commercial premises should normally be from businesses with planning consent for the property concerned. The council is committed to avoiding duplication with other regulatory regimes as far as possible. Conditions will only be attached to premises licences if they are considered appropriate to promote the licensing objectives and are not required under other legislation.

- 1.15 In order to promote equality, and to fulfil its statutory duties under the Equality Act 2010, the council has developed and published a series of 8 equality objectives which reflect emerging priorities for the council and remain central to the running of the authority, including the exercise of its duties under the Licensing Act. These objectives are implemented through the Council Equality Action Plan 2012 to 2016. It is considered that the publishing and implementation of the Statement of Licensing Policy will assist in fulfilling its duty to promote equality. It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation.
- 1.16 Other relevant legislation is listed in Appendix 6.

POLICIES

2

2.1. Policy approach

2.1.1 The council as a Licensing Authority only has discretion on whether to grant applications for new premises licences or variations to licences (see Appendix 2), and to impose conditions on granting or varying licences, if representations relevant to the licensing objectives are made by “responsible authorities ” or by “other persons” (including local residents and businesses) (see Glossary) in due time. Otherwise, the Licensing Authority must grant all applications for premises licences. Therefore, the Licensing Authority will only consider these policies when such relevant representations have been made. There are four types of policy in this statement:

- Policies supporting each of the licensing objectives (Policies CD1, PS1, PN1 and CH1). These apply to all applications. They contain criteria and considerations whose relevance will depend on the type and nature of the application. They refer to matters that may be the subject of conditions.
- A policy on hours (Policy HRS1) on the considerations that will apply to all applications.
- A special policy CIP1 on cumulative impact that applies only in the Cumulative Impact Areas, (see Appendices 14 and 15), and policy CIP2 on reviews in Cumulative Impact Areas.
- Policies that apply to various types of licensable activities. These outline the way the criteria and considerations will be applied. They reflect the likely impact of types of licensable activities and the council’ s intention to promote cultural and age diversity, in order to further the licensing objectives

Restaurants (RNT1&2)

Fast food premises (FFP1&2)

Public Houses and bars (PB1&2)

Sale of alcohol for consumption off the premises (OS 1&2)

Premises that have facilities for music and dancing (MD1&2)

Theatres, cinemas, performance venues and qualifying clubs
(PVC1&2)

Hotels (HOT 1)

Casinos (CAS 1)

Combined use premises (COMB1)

Nudity, striptease and sex related entertainment etc (NS1)

- 2.1.2 It should be noted that the council has adopted Action Plans for the improvement of particular areas, and it may adopt other area improvement plans and strategies for local areas in future. The Licensing Authority will take such plans into account where relevant to the licensing objectives.
- 2.1.3 The Licensing Authority will continue to monitor the effect of the grant of licences on the licensing objectives. It has once again considered carefully the cumulative impact of the grant of licences, having particular regard to areas adjoining Cumulative Impact Areas when reviewing its Statement of Licensing Policy. It has decided that, on the basis of reports of crime and disorder and of public nuisance collected over the period of the review, there is insufficient evidence to justify the extension of the Cumulative Impact Areas as part of this revised policy. The reports of violent crime in the late night period after midnight to 04:00 indicate that the extent of crime in areas adjoining the West End Cumulative Impact Area is substantially less than in the Cumulative Impact Area, and do not at this time provide sufficient justification for the extension of special policies on cumulative impact. The designation of additional areas where special policies on cumulative impact apply requires firm evidence to justify these strict policies. In the areas surrounding the West End Cumulative

Impact Area, there continue to be a small number of premises outside the Cumulative Impact areas that seem to be having a disproportionately adverse effect on the licensing objectives in terms of the crime associated with them. It is considered that this is best addressed by programmes of targeted monitoring and enforcement. The evidence from records of crime reports of rowdy and inconsiderate behaviour does not indicate that incidents are particularly concentrated in areas adjoining the West End Cumulative Impact Area.

- 2.1.4 In accordance with Revised Guidance at paragraph 13.41 the licensing authority will consider the use of alternative measures such as fixed closing times, staggered closing times and zoning within the city, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives.
- 2.1.5 Conscious of concerns from city residents, the council, at the time of the 2015 review of its Statement of Licensing Policy invited the submission of evidence where it is suggested that the cumulative impact of a significant number of licensed premises concentrated in one area is undermining any of the licensing objectives or where alternative measures may be appropriate. The council intends to assess relevant evidence and formulate further policy proposals for specific areas where appropriate to promote the licensing objectives. Such proposals will be subject to public consultation and approval before adoption as part of this Statement of Licensing Policy.
- 2.1.6 Revised Guidance in paragraph 13.33 states “The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives” . There will not be a policy presumption against grant of a premises licence outside the Cumulative Impact Area on the grounds of cumulative impact. However the overall effect

of the grant of any licence or the variation of a licence will be considered in relation to evidence of cumulative impact on the licensing objectives.

- 2.1.7 When relevant representations are made, the Licensing Authority will apply the relevant parts of these policies in relation to applications for new licences, including those for provisional statements, for variations to premises licences and also to reviews and also to similar applications related to club premises certificates for qualifying clubs.
- 2.1.8 Trial periods are not appropriate in relation to policy CIP1 with regard to policies FFP2 for fast food, PB2 for pubs and bars, and MD2 on music and dancing in the Cumulative Impact Areas. This is because the impact on the Cumulative Impact Area of any one premises staying open later can rarely be measured empirically over a trial period, (which underlies the fact that cumulative impact is a consequence of the totality of premises in an area rather to any individual premises). Moreover, there are not the resources available to the responsible authorities to conduct such empirical measurement exercises. Accordingly, a trial period for individual premises in the Cumulative Impact Area will almost inevitably be a futile exercise. Any trial periods to demonstrate that grant of licences of other types do not add to cumulative impact in the Cumulative Impact Area would generally be impractical for the same reasons. The council considers that as a general principle, trial periods are not in accordance with the principles of the Licensing Act because the Licensing Authority needs to be satisfied that the grant of an application would promote the licensing objectives, and if it were so satisfied a trial period would not be necessary. It is for this reason that trial periods outside Cumulative Impact Areas are not considered appropriate.
- 2.1.9 In cases where licences have lapsed through insolvency or death, the council will generally grant a new licence on similar terms to the lapsed licence as a replacement. However the council will take into account the previous history of the premises, the length of time the premises have been closed, and any problems at the premises, and will impose conditions that reflect current good practice for the type of business proposed at the premises

2.2. Policies supporting each of the licensing objectives

Introduction/definitions

- 2.2.1 These policies are intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up an Operating Schedule. The criteria, because they relate to the licensing objectives, will apply to all applications to some degree; the considerations listed may not necessarily apply, or apply equally, to all applications. These considerations have been developed with reference to the licensing objectives and in consultation with the responsible authorities. They alert applicants to the matters that responsible authorities will be likely to consider when deciding whether to make representations on an application or whether to call for a review. They also draw the attention of applicants to matters that are likely to be the subject of proposed conditions designed to promote the licensing objectives that may be attached to the grant of a licence.

Prevention of crime and disorder - Policy CD1

To prevent crime and disorder, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

Whether the premises make or will make a significant contribution to levels of crime and disorder, and whether the Operating Schedule is based on an adequate risk assessment, undertaken by the applicant, of the likelihood of crime and disorder occurring as a result of the grant of the application.

Considerations

(i) The levels of crime and disorder in and around the venue; the proposals contained in the operating schedule; the level of compliance to conditions on existing licences; and the extent to which the Metropolitan Police' s effective management checklist (see Appendix 7) has been taken into account. This provides an illustrative but not exhaustive list of considerations, not all of which will be applicable to all premises.

(ii) Whether the layout, lighting and fittings of the premises have been designed so as to minimise conflict and opportunities for crime and disorder (see Appendix 7).

(iii) Whether the Operating Schedule includes appropriate management measures to prevent crime and disorder (see Appendix 7).

(iv) Whether the Operating Schedules for pubs and bars or for the provision of facilities for music and dancing have taken into account: the possibility of crowding the areas set aside for drinking while standing, and of the measures set out in Appendix 9. Other premises may have to have regard to these matters in exceptional circumstances.

Reasons for Policy CD1

- 2.2.2 The Licensing Authority will expect applicants to explain in their Operating Schedule how the operation of the premises will promote the prevention of crime and disorder. For pubs, bars and premises with facilities for music and dancing (e.g. night clubs), a specific assessment is needed of how the risks of violence and crime in the premises and the vicinity will be managed. This is attached as Appendix 9. Details of the issues associated with crime and disorder, public safety, and public nuisance are outlined in Appendix 12. Westminster Police' s policy statement is attached as Appendix 10.

Conditions

2.2.3 Revised Guidance (paragraphs 2.2 to 2.4) sets out matters that may be relevant to the imposition of conditions relating to crime and disorder on licensed premises. The Licensing Authority will tailor appropriate conditions for premises licences and club premises certificates. Since the matters set out in Guidance and this Statement of Licensing Policy cannot cover every possible scenario, the council will liaise with the police for advice on appropriate conditions for particular premises. Conditions attached to premises licences and club premises certificates will, as far as possible, reflect local crime prevention strategies as suggested in Revised Guidance (paragraph 2.1).

2.2.4 The Licensing Authority may impose a range of conditions on premises licences or club premises certificates, which may include model conditions collated by the licensing authority. The seeking and any imposition of these conditions and their extent will depend upon the risks of crime and disorder at the particular premises.

- Prescribed capacity of premises.
- Requirements for an appropriate ratio of tables and chairs to customers, based on capacity, and for areas to be allocated permanently for seated customers in order to prevent overcrowding, which can lead to disorder and violence.
- A requirement for Security Industry Authority registered door supervisors to control numbers of persons entering the premises and to deny entry to individuals who appear drunk, disorderly or intent on crime.
- Requirements that drinking vessels be made of toughened glass or plastic or other materials that do not form a sharp edge when broken, and that glass bottles are not passed to customers; This may be a particular concern if drinks are to be consumed

outside premises. These conditions will generally only be required when there have been a number of incidents of injuries inflicted with by broken glass and where numbers of people gather in association with major sporting and other events. The Police will encourage the adoption of shatter-proof or crumpleable drink containers at particular premises at times when there are risks of disorder or threats to public safety. If problems of disorder or threats to public safety persist and result in reviews, appropriate conditions may be imposed preventing the use of glasses and glass bottles and requiring appropriate types of shatter-proof, or crumpleable drink containers that can neither be deployed as a weapon or a missile to be used in premises at specified times. In all cases the licensing sub-committee will need to determine in the context of the individual circumstances of an application, whether it is appropriate to ban glass bottles and glasses based on the evidence presented

- Restrictions on drinking in areas within and outside the premises.
- Procedures for checking the ages of young people who appear under 21 or under 25 to ensure that alcohol is not sold to those under 18, and that those under 16 are accompanied in alcohol-led premises.
- The maintenance of good order by the management, particularly where alcohol is supplied for consumption and where large numbers of people are admitted.
- Dedicated text, pager or other remote communications between management teams, and local police stations and other licensed premises to provide early warning of disorder.
- Warning signs about crime prevention measures.

- Where appropriate, the installation and maintenance of an appropriate number of suitably sited closed circuit television cameras (CCTV) both inside and immediately outside the premises which can provide images of a suitable quality for use as evidence. These to be operational during the period of provision of licensable activities and at other appropriate times. CCTV images are an integral part of crime investigation and one of the most powerful pieces of evidence to secure a conviction. CCTV should be provided at premises to varying extents, and only as appropriate to promote the licensing objectives. Generally only minimum levels of CCTV to cover entrances, exits and the till areas, to a standard to enable facial recognition, will be required in those licensed premises where CCTV is appropriate to assist in the investigation of thefts, underage sales, non payment of bills etc. Higher levels of coverage, based on factors including the type and location of the premises, any history of crime, and the layout and proposed use of the premises, may be appropriate at individual premises or types of premises associated with high levels or serious crime. In these cases, the council would expect the police to indicate why and to what extent CCTV was being requested. Conditions may require the installation, maintenance, and operation of appropriately sited CCTV cameras and recording systems, which can provide images in all light conditions of a quality to enable facial recognition and be suitable for use as evidence, when premises are used for licensable activities. Conditions may also require that images should be retained for a calendar month and that staff should be trained and authorised to make these images readily available to the Police and other authorised officers.
- Clear policies and measures to prevent illegal drugs being brought onto the premises and measures to discourage the use of illegal drugs.

- Searching of customers and staff may be a condition on premises licences associated with serious crime and disorder or those where they are holding events organised by an outside promoter. Search arches and search wands to detect weapons and “clubscan” schemes to record the identity of all those attending premises, may be required where there is evidence of a significant risk of serious violence at an event or premises.

2.2.5 Other conditions relating to the deterrence and prevention of crime and disorder and initiatives to reduce crime will be drawn up in liaison with the police to deal with particular premises or types of premises where concerns may arise. The council recognises the value of the coordination of premises through schemes such as the Pubwatch and other similar schemes to combat problems associated with football and other sporting events and in alerting premises to trouble and it encourages membership of an appropriate scheme where this would promote the licensing objectives.

Public safety - Policy PS1

To promote public safety the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

Whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the Licensing Authority, that demonstrate that the public will be safe within and in the vicinity of the premises.

Considerations

(i) Whether the premises already have a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken as to the maximum number of people who can be present in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency.

(ii) Whether there are procedures proposed to record and limit the number of people on the premises with opportunities for “pass outs” and readmission.

(iii) Whether patrons can arrive at and depart from the premises safely.

(iv) Whether there may be overcrowding in particular parts of the premises;

(v) Whether music and dance venues and performance venues will use equipment or special effects that may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines).

(vi) Whether due account has been given to the measures outlined in ‘Safer Clubbing’¹ in applications for facilities for music and dancing. The key areas identified are:

- prevention of overcrowding
- air conditioning and ventilation
- availability of drinking water

¹ Safer Clubbing’ published by the Home Office (Drugs Prevention Advisory Service and the London Drug Policy Forum) January 2002

- affordable Cloak rooms
- further measures to combat dancers and others overheating
- overall safety

(vii) Whether there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services.

(viii) The levels of compliance with conditions on existing licences relating to public safety.

Reasons for Policy PS1

2.2.6 The council in its role as Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The council will need to be satisfied that measures to promote public safety including risk assessments, setting safe capacities, adequate means of escape, and where appropriate, CCTV are put in place and maintained, if not adequately provided for by other regulatory regimes. There are a considerable number of premises without fire safety certificates or licences that specify their safe capacities. Crime, disorder and anti-social behaviour inside and in the vicinity of licensed premises may threaten public safety and affect perceptions of public safety.

Conditions

2.2.7 Revised Guidance (paragraphs 2.7 to 2.13) sets out matters which relate to conditions on public safety. These will be used to tailor appropriate conditions for premises licences and club premises certificates. Where a premises is a vessel for which a current passenger ship certificate is in force, the public safety objective can generally be considered to be met in respect of the premises itself where the operation of the vessel is in accordance with that certificate.

2.2.8 Matters that should be considered in operating schedules include the following and conditions may be attached to licences by the Licensing Authority but other conditions related to public safety may also be attached:

- Checks on equipment at specified intervals.
- Standards to be maintained e.g. temporary electrical installations to comply with British Standards.
- The number of people on the premises appropriate to the activities taking place and reliable ways of counting the number of people on the premises.
- Maintaining and making available a record of inspections, pre-opening and during performance, of fire doors, escapes, and appliances and of the number of people on the premises.
- Ensuring that floors are kept from becoming slippery from spillages or condensation.
- Measures to prevent climbing onto ledges, balconies and speakers.
- Measures to keep sound levels below levels where damage to the hearing of staff and customers is likely to occur.
- Management measures to reduce the risks of dancers and others
- overheating such as affordable cloakrooms, "chill-out rooms" , breaks from fast dance rhythms, and identifying dancers who may be in distress.
- Provision of facilities for people who are taken ill or injured to contact friends or family, to recover, or be kept safe while awaiting medical assistance.

Prevention of public nuisance - Policy PN1

To prevent public nuisance the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

The potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises and the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in the proximity of the premises.

Considerations

1. Noise and vibration

Whether Operating Schedules contain adequate measures to prevent noise and vibration, whether air borne or structure borne, generated from within the premises, outside it, or from an open site, that may cause disturbance to people in the vicinity. Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them. See Appendix 11.

Measures to limit noise and vibration

Applicants will be expected to have included measures in their Operating Schedules that make adequate provision to:

- (a) restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site
- (b) limit the escape of noise from the premises or open air site
- (c) restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping
- (d) minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it
- (e) minimise and control noise from staff, contractors and suppliers and their activities
- (f) minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers

The measures proposed in the Operating Schedule should have regard to the objective noise criteria set out in Appendix 11.

2. Eating, drinking and smoking outside premises

- (a) Whether people standing or sitting outside premises are likely to cause obstruction or other nuisance.
- (b) Whether the premises are under or near to residential accommodation.
- (c) The hours of the sale of alcohol in open containers or food for consumption outside the premises.
- (d) Measures to make sure that customers move away from outside premises when such sales cease.
- (e) Measures to collect drinking vessels and crockery, cutlery and litter.
- (f) The extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink and for smoking.

(g) Whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied from the premises or not), between certain hours or at all times. There may in addition be particular issues of crime and disorder with regard to outside activities.

Note: Both planning permission and a street trading licence are required for seating for the use of customers on the public highway and these are generally restricted to before 23:00 in Westminster.

3. Other environmental impacts

(a) Whether Operating Schedules contain adequate measures to prevent:

- litter, smells, fumes, dust, tobacco or other smoke, or other emissions
- street fouling
- light pollution

arising from the proposed licensable activity that may cause disturbance to people in the vicinity.

(b) Whether the proposed licensable activities will be likely to cause nuisance by congesting the pavement or the roadway, and so impeding reasonable access (including the access required to provide essential services such as refuse collection and street cleaning).

(c) If the sale of alcohol in open containers or food for consumption outside the premises has been proposed, either within open areas which form part of the premises such as forecourts or gardens or outside the premises, whether or not external seating is proposed, the following considerations are relevant.

(d) Whether the proposals would lead to the need for increased refuse storage or waste collection.

(e) Whether measures would be undertaken to prevent nuisance caused by the storage, handling and collection of refuse and recyclable materials.

(f) Whether the sale of take-away food is proposed and the measures planned to prevent littering in the vicinity and to clear up any litter that occurs.

(g) Whether late night premises are likely to generate litter. Premises may need to make provision for patrols to clear up litter, taking into consideration the hours of street sweeping.

(h) Whether queuing is likely and the steps proposed to prevent queuing or, if some queuing is inevitable, to divert queues away from residential properties and entrances of neighbouring premises, and to manage the queue to prevent disturbance or obstruction.

(i) The measures proposed for the management of people leaving premises to smoke and for their readmission; including managing readmissions in relation to any queuing for admission and to measures to ensure that security procedures apply equally to admissions and readmissions.

(j) Whether other measures to prevent nuisance such as the use of CCTV or the employment of registered door supervisors are appropriate.

Reasons for Policy PN1

2.2.9 The Licensing Authority will expect applicants to set out in their Operating Schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises or open air site under the licence. Applicants should identify and describe through a risk assessment how these risks will be managed. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, a reduction of the living and working amenity and environment of persons in the vicinity of licensed premises.

2.2.10 Westminster has a substantial residential population and the council as the Licensing Authority has a duty to protect it from nuisance. In certain areas, the increased concentration of entertainment uses and the longer hours of operation have adversely affected local residents. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and helps sustain their businesses. The role of the council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the city including, businesses, workers, shoppers and visitors. It will need to satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained. These principles apply also to events in open air sites.

2.2.11 Playing of music can cause nuisance both through noise breakout, transmission through the structure of the building and also by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. The later that music is played, the greater the potential for nuisance. Other major sources of noise nuisance are vehicles collecting customers; the slamming of car doors and the sounding of horns resulting from congestion and pressure for on-street parking space and the need for the servicing of premises. These noises can be particularly intrusive at night when ambient noise levels are lower. Other impacts include: noise from customers smoking, drinking, and eating in the open-air, the servicing of premises, and noise and smells from ducts and ventilation equipment. There are similar issues that apply to the operation of events at open air sites.

2.2.12 Residents are often subjected to nuisance from the noise of people on their way to and from premises, and loitering in the streets after they have left premises. This can affect residents even at some distance from the premises themselves, especially along routes to transport facilities, and to car parks and parking areas and on routes between late night premises of various types. The nuisance from noise depends on its nature and whether it is during the day, the evening or at night. Late night noise is often unsettling; particularly

shouting and screaming. Some of this is associated with aggression and assaults but most of it is "high spirits" . It is impossible to distinguish between the reasons for these noises and in any case, it is very disturbing late at night. The degree of nuisance caused by noise increases with the lateness of the hour; especially if it disturbs or prevents sleep.

2.2.13 Eating and drinking outdoors is increasingly popular, and the smoking ban inside premises has increased the number of people outside premises smoking or accompanying smokers. The noise of people socialising outdoors can cause public nuisance, even if they are not badly behaved. In addition, the blocking of footways, and more occasionally roadways, by people standing about drinking and smoking is a public nuisance whether or not it amounts to the offence of obstruction or becomes an issue of public safety. There have been a number of reviews of premises licences solely on the basis of nuisance from outside drinking. The placing of tables and chairs for people to eat or drink on any part of the public highway, or within 7 metres of it, requires both planning permission and a street trading licence in Westminster. In determining both these types of applications, regard will be paid to amenity concerns. However, the use of garden or courtyard areas or other private areas is not controlled under these regimes. In order to prevent public nuisance it will be necessary to consider the extent of eating and drinking that will take place outdoors and the measures that may be appropriate to ensure that nuisance is not created. Outdoor eating and drinking and the congregation of people at night is likely to cause nuisance and conditions are likely to be imposed to limit the hours when this takes place. It also increases the potential for criminal activity. This may require staff to control or prevent people going outdoors with food or drink, either some or all of the time. Where appropriate, conditions will be imposed to manage or, if appropriate, prevent outdoor eating and drinking. The council is aware that problems arising from people congregating to smoke and to accompany smokers are widespread. The council will continue with its risk-based approach to enforcement, using a range of escalating informal measures, prior to review. It may encourage the management of people standing outside premises to minimise the adverse effects on the licensing objectives. The council may

impose conditions that if customers leave premises to smoke, they must not take drinks with them. While there can be no ban on people leaving premises to smoke, conditions may be imposed that there is no readmission after certain hours or at any time. If problems from people congregating outside premises persist, and if there are representations from the police, other responsible authorities or other persons and these are substantiated at review, the council might restrict the hours for, or remove the sale of alcohol for consumption off the premises from a premises licence.

- 2.2.14 Some late night premises contribute significantly to the public nuisance of litter; particularly premises selling hot take-away food and drink late at night, or clubs where there is queuing or which distribute publicity flyers. Customers drop litter late at night and by congregating outside these premises they make it impossible for the streets to be properly and effectively swept. Flyposting is a public nuisance. Entertainment venues are one of the main types of business that resort to this type of advertising
- 2.2.15 In those parts of the city characterised by round-the-clock activity, the council operates a 24-hour cleansing service. However, at the busiest times and in the busiest places it is sometimes impossible to maintain streets to a high standard of cleanliness. In such locations, a "window of opportunity" is needed between about 02:30 and 05:00 when the streets are sufficiently empty to sweep them effectively and to use mechanical equipment, in order to restore a high standard of cleanliness before the start of the next working day.
- 2.2.16 For the purpose of this policy statement "touting on behalf of premises" includes behaviour which involves physically approaching and getting customers to come directly to premises either from on the streets or from other premises. This has an adverse effect on the licensing objectives; nuisance is caused by pestering the public in the street and in other premises; it has an adverse effect on crime and disorder and public safety because of the potential for disputes between touts over potential customers, and the sending of customers to venues which are unsuitable for their needs. Escorting groups of customers in party mood from one licensed premises to

another may cause nuisance and increase queuing and consequential nuisance in the vicinity of the second venue. Where such problems arise an appropriate remedy may be to restrict the hours of admission at the second, "follow-on" premises that is engaging in, or encouraging, touting. Conditions may be sought which make the use of touts a breach of the terms of the licence, irrespective of whether payment is made to touts. Model conditions will be developed on unacceptable practices, referring to those activities which compromise the licensing objectives including engaging in or encouraging touting.

Conditions

- 2.2.17 Revised Guidance (paragraphs 2.14 to 2.20) includes advice on conditions that relate to the prevention of public nuisance. Hours of opening and hours for each licensable activity must be included in Operating Schedules. Conditions will be attached on the hours when premises are permitted to be open to the public or to members and their guests for the prevention of public nuisance. Conditions could be appropriate to limit the times when certain licensable activities take place, although the premises may be open to the public at such times. For example, there may be reason to have a condition on the hour that music ceases to be played in a bar or restaurant, or when alcohol is served at a music venue, which is prior to the end of other licensable activities. Conditions may also be attached referring to the parts of premises that might be used for certain licensable activities at certain times. Stricter conditions will be expected in areas of denser residential accommodation.
- 2.2.18 Conditions will be attached to premises licences where appropriate. These may include conditions on: maximum noise levels over particular time periods, the installation of sound limiters, acoustic lobbies; provision of signs, publicity and verbal advice to patrons to leave quietly and by certain routes; controlling nuisance from light pollution; taking food or drink outside the premises; flyposting; distribution of leaflets; litter and cleaning outside of the frontage and in the vicinity of the premises. (See paragraph 3.1.7 of this document on the council's pool of model conditions).

Protecting children from harm - Policy CH1

To protect children from harm, the Licensing Authority will apply the following criteria and take in to account the following considerations, where relevant, in determining applications and reviews:

Criteria

Whether there are appropriate measures in place to protect children from harm.

Considerations

(i) Whether there are effective measures to check the age of those young people who appear under 21, or under 25, to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises (see Appendix 9).

(ii) Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

(iii) Whether accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance.

(iv) The hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises.

(v) Whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks²

(vi) Whether there are adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult.

(vii) The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.

(viii) Whether there is evidence of heavy, binge or underage drinking on the premises.

(ix) Whether the premises commonly provides entertainment or services of an adult or sexual nature (see Glossary).

(x) Whether there is a strong element of gambling on the premises (but not, for example, the presence of a small number of cash prize gaming machines).

(xi) Whether films are to be shown and the measures to restrict children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the council itself; Revised Guidance (paragraph 13.55) refers.

² The Portman Group Code of Practice on the Naming, Packaging and Merchandising of Alcoholic Drinks and their Retail Alert Bulletins on unsuitable packaging and marketing.

(xii) If performances or activities are likely to attract children, the number of adults required for the supervision of children.

(xiii) Where play facilities are provided if an adequate risk assessment has been made and appropriate measures taken.

(xiv) The measures to be taken to ensure that those supervising or having significant contact with children have been appropriately vetted to ensure that they pose no risk to children.

(xv) Proposals for the provision or arrangement for safe transport for children.

Reasons for Policy CH1

2.2.19 Westminster is unique in the range of entertainment facilities it has to offer and in its accessibility from all over London, the South East and nationally. The “bright lights” of the West End attract young people from far and near. Young people who are some distance from their homes are particularly vulnerable, especially underage and inexperienced drinkers.

2.2.20 The Licensing Authority will expect applicants to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises and in the vicinity where it is in the power of the applicant to influence this. These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licences involving:

(i) the sale of alcohol

(ii) children’ s performances

(iii) attractions or performances likely to attract children

2.2.21 It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. There is a further specific offence of persistently selling alcohol to children if sales to children are made on 2 or more different

occasions within period of 3 consecutive months. The provisions of the Act are that unaccompanied children under 16 should not be on “premises being used exclusively or primarily for the supply of alcohol” (e.g. “alcohol led” premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00. The provisions of the previous regime under the Licensing Act 1964 were that children under 14 should not be allowed in a bar area. This provision has been converted into “embedded” conditions attached to premises licences under the current regime.

- 2.2.22 It is recognised that it is increasingly difficult to define a “bar area” as premises trade longer and change in character over the day. Those making applications for “alcohol led” premises that seek to remove the embedded conditions on children in bars should consider in their Operating Schedules whether there will be circumstances when children under 16 should not be on the premises. Considerations could include: the hours they were on the premises and whether they were there for a specific purpose such as partaking of a meal or being entertained by live performances and whether there were any specific aspects of licensable or other activities taking place when children should be excluded, e.g. drink promotions or particular types of performances or competitions.

Conditions

- 2.2.23 Revised Guidance (paragraph 2.21) states that the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives and sexual exploitation.
- 2.2.24 In line with Revised Guidance (paragraph 2.22,) conditions may be attached relating to the access or, where appropriate, the exclusion of children to a premises licence or club premises certificate where there is:

- (i) a history of offences relating to underage drinking
- (ii) a known association with drug taking or dealing
- (iii) a strong element of gambling on the premises
- (iv) entertainment of an adult or sexual nature commonly provided
- (v) films shown with age restricted classification.

2.2.25 In line with Revised Guidance (paragraph 2.26) conditions limiting the access of children may be attached. These could include one or any combination of the following:

- (i) Requirements for adequate procedures to check ages in premises where alcohol is served.
- (ii) Limitations on the hours when children may be present
- (iii) Limitations or the exclusion of children under certain ages when particular specified activities are taking place.
- (iv) Age limitations (below 18).
- (v) Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult).
- (vi) Limitations on of parts of premises to which children may have access.
- (vii) Full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.2.26 As a Licensing Authority the council will impose conditions on film exhibitions in order to protect children from inappropriate exposure to portrayals of violence or sexual activities, strong language and sexual expletives. These will include:

(i) A requirement to adhere to either the age restricted recommendations of the British Board of Film Classification or to similar classifications imposed by the council. Details of the certifications imposed by the council are available from the council's Licensing Service

(ii) A requirement for the cinema venue operator to submit to the council any film not classified by the British Board of Film Classification which it intends to exhibit 28 days before it is proposed to show it

(iii) In line with the various classifications of films by the British Board of Film Classification, the Licensing Authority will impose conditions necessary to restrict access accordingly and to require any certificates or notices of category to be displayed appropriately.

2.2.27 At premises and performances which are likely to attract a substantial number of children, the Licensing Authority may attach conditions requiring the presence of a sufficient number of adult staff on the premises to ensure the well being of the children during an emergency.

2.3. Hours

Introduction/definitions

- 2.3.1 This policy applies to all types of premises licences and club premises certificates. It should be noted that the Operating Schedules must specify both the hours in which premises are open to customers and the hours when licensable activities are taking place. Under Policy PN1 hours when servicing refuse and recycling collections may take place may also be subject to conditions.
- 2.3.2 In its Revised Guidance (paragraphs 10.13 and 13.44) the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas, and that licensing authorities are best placed to make decisions regarding licensing opening hours as part of the implementation of its licensing policy statement. It is the intention to generally grant licences or variations to licences where the hours when customers are permitted to be on the premises are within the 'core hours' as set out in Policy HRS1. This is not a policy to refuse applications for hours longer than the core hours and consideration will in all cases be given to the individual merits of an application. Where a proposal is made to operate outside these core hours each application will be considered on its merits against the criteria as set out in paragraph (ii) below. The council expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their operating schedule. As part of applications for premises that intend to operate after midnight, operating schedules should include particular consideration to the limited availability of transport after London Underground services cease. In common with the rest of the city, in the Cumulative Impact Areas variations of hours within the core hours under Policy HRS1 will generally be granted.

Hours - Policy HRS1

(i) Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.

(ii) Applications for hours outside the core hours set out below in this policy will be considered on their merits, subject to other relevant policies and with particular regard to the following:

(a) The demonstration of compliance with relevant criteria in policies CD1, PS1, PN1 associated with the likelihood of the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety and public nuisance.

(b) Whether there is residential accommodation in the proximity of the premises that would be likely to be adversely affected by premises being open or carrying out operations at the hours proposed.

(c) The proposed hours of the licensable activities and when customers will be permitted to remain on the premises.

(d) The proposed hours when any music, including incidental music, will be played.

(e) The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises.

(f) The existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity.

(g) Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night.

(h) The capacity of the premises.

(i) The type of use: recognising that premises that sell alcohol, play music for dancing, provide fast food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas, other performance venues or qualifying clubs.

(j) The Licensing Authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely.

(k) Conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises.

(l) The council acting as the Licensing Authority may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

(m) Specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and interested parties to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for Bank Holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non specific days are expected to be covered by Temporary Event Notices or variation applications.

Core hours when customers are permitted to be on the premises

(see Policy HRS1)

- For premises for the supply of alcohol for consumption on the premises:

Friday and Saturday: 10:00 to midnight

Sundays immediately prior to Bank Holidays: Midday to midnight

Other Sundays: Midday to 22:30

Monday to Thursday: 10:00 to 23:30

- For premises for the supply of alcohol for consumption off the premises:

Monday to Saturday: 08:00 to 23:00

Sundays: 10:00 to 22:30

- For premises for the provision of other licensable activities:

Friday and Saturday: 09:00 to midnight

Sundays immediately prior to Bank Holidays: 09:00 to midnight

Other Sundays: 09:00 to 22:30

Monday to Thursday: 09:00 to 23.30

Reasons for Policy HRS1

2.3.3 Westminster has the greatest concentration of licensed premises in the United Kingdom; many currently operate late into the night. There is extensive late night opening and a range of closing hours throughout the night. Appendix 13 provides details on the hours of operation of licensed premises across the city. There are over 300 licensed premises in Westminster which operate after midnight. Many of these premises retained these hours through the process of conversion of licences during the transition period and continue to provide a

variety of later operating times. Appendix 12 illustrates the pressures late at night, including the limited capacity of the transport system to serve the extent of late night activity, the extent of crime and disorder and the opportunities for crime, issues of public nuisance, and the need for a “window of opportunity” for the city to be cleaned. In the particular circumstances of Westminster with its already extensive late opening, the council welcomes the inclusion in Revised Guidance (paragraphs 10.13 and 13.44) of the Government’s acknowledgement on the primacy of the licensing authority to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement, and recognising that licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities.

The council does not accept that in the circumstances of Westminster the granting of generally longer hours would result in a reduction in crime and disorder and public nuisance. It is prepared generally to grant premises licences for hours that will provide for longer hours at the end of the week but that still enable people to travel home relatively easily by tube, train, bus, and taxi, while retaining opportunities for residents to have an additional respite on Sunday. It expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their operating schedule. As part of applications for premises that intend to operate after midnight, operating schedules should for instance give particular consideration to the limited availability of transport in the early hours of the morning. Hours later than these core hours will be considered on their merits in relation to other policies in the Statement of Licensing Policy. The council wishes to see a less alcohol led and a more diverse range and variety of entertainment available later at night, and will allow for greater flexibility to those premises that add to a more varied offer of entertainment and cultural activity. The council wishes to encourage a wider range of people to frequent the West End, both so that they can enjoy what it has to offer and because a wider range of age groups can act to curb anti-social behaviour. In doing this

it will further the licensing objectives of prevention of crime and disorder and public nuisance.

- 2.3.4 The consideration of hours of operation will be in the context of the particular circumstances of each application and the licensing objectives of preventing crime and disorder and public nuisance. The hours at which noise may occur and disturbance of residents' rest, relaxation and sleep will be of particular concern. In general, the conditions will be framed to ensure that closing hours on nights when residents have to get up for work the next morning are earlier than when it is less likely that they will have to do so.
- 2.3.5 Activity associated with late night licensed premises may have an impact on the local environment and may cause public nuisance. The effect of noise is greater later at night when ambient noise levels are lower and residents are at home relaxing or wishing to sleep. The Licensing Authority in considering the imposition of conditions will focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning, when residents in adjacent properties will want to relax, or sleep. Conditions relating to noise may also prove necessary to address any disturbance anticipated from the activities of customers in the vicinity of the premises (Revised Guidance, paragraphs 2.18 and 20).
- 2.3.6 Applicants should carefully consider the hours that they will wish to operate each licensable activity and when to close their premises for the entry of customers and when to require them to leave. They should consider each licensable activity separately and carefully and reflect this in their Operating Schedules. The Licensing Authority will similarly consider hours for licensable activities and closing times and appropriate conditions. The benefits of "winding down" periods (after the last sales of alcoholic drinks, while food and non alcoholic drinks are still available, when the volume and tempo of music is reduced and the levels of lighting are increased). These are very widely recognised as helping to reduce crime and disorder and public nuisance. Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should

consider stopping playing dance music and to switch to quieter, slower tempo music with a less pronounced beat while other licensable activities continue.

- 2.3.7 The consumption of alcohol on licensed premises is not directly regulated as a licensable activity under the Act but is clearly relevant in assessing whether the premises promote the licensing objectives. Similarly, the time to which customers are permitted to remain on licensed premises, and subsequently leave those premises, is also relevant. Notwithstanding that some licence holders, as a matter of good management, may restrict the sale and consumption of alcohol for a period of time before the end of opening hours as part of a “winding down” strategy described above, the licensing authority will, subject to other conditions and restrictions, impose conditions on a licence to restrict the time at which alcohol may be consumed on the premises and/or require that all customers leave the premises by a certain time where it considers it appropriate to do so to promote the licensing objectives.
- 2.3.8 Applicants are encouraged not to apply for later hours than they will in fact operate; particularly the seeking of 24 hour licences where there is no intention of operating on a 24 hour basis. Responsible authorities will generally be more likely to make objections the later the hour that licensable activities are proposed to take place.
- 2.3.9 Premises where regulated entertainment is provided to a seated audience (e.g. cinemas, theatres and concert venues), provide a diverse range of cultural and entertainment facilities and are attended by a wide range of age groups. They generally have little association with crime and disorder or public nuisance. Because of this, these types of premises will be given the opportunity to operate more flexibly late at night. Any relevant representations received and the availability of transport will be matters for careful consideration.
- 2.3.10 In the past qualifying clubs have had little association with crime and disorder or public nuisance. Through their membership requirements, they exert a degree of control over behaviour in and around their premises. Any relevant

representations received and the availability of transport will also be matters for careful consideration.

- 2.3.11 Transport for London (TfL) have announced that from September 2015 it proposed to operate a Tube service throughout the night on Friday and Saturday evenings, on the Jubilee and Victoria lines and most of the Central, Northern and Piccadilly lines. Underground trains are planned to operate about every 10 minutes and the proposals constitute a significant increase in night time transport provision across greater London. Night bus services are also planned to be improved and extended, both in the centre of the city and at outlying tube stations. TfL have further announced that plans are being drawn up to extend the 24 hour provision of tube services to other underground lines, parts of the London Overground network, and the Docklands Light Railway in the next few years.
- 2.3.12 There is no doubt that this improved transport provision will have a variety of impacts for people living, working and visiting the city, and impact particularly on an already buoyant night time economy. Improved access to and from the city through the night will have the potential for example, both to assist in dispersing people from the busiest areas of the West End to other parts of the city and elsewhere, and also to allow people to travel into the West End from the outskirts or outside the city at later hours throughout the night.
- 2.3.13 It is recognised that there is likely to be an increase in cultural, business, and tourism opportunities at the later hours but also that these activities may bring associated challenges for city residents and public realm service providers. The council recognises that the scale, diversity and concentration of the night time economy, particularly in the West End, is unique and brings cultural and financial benefits to the whole city. The council believes that good management of its vibrant entertainment industry, and of the street environment within which it operates, is essential to the continued success of central London, and in attracting a wide range of people who want to work, visit or live there.

- 2.3.14 Statutory licensing policies are key tools in managing the competing pressures that the successful night time economy brings. They have been developed over many years to balance the benefits and impacts that arise for businesses, residents and visitors. It is essential that these policies are reviewed in the light of the significant changes in transport provision that is proposed but equally essential that the impact on the city that these changes may bring are properly assessed and understood before revisions to policy are implemented.
- 2.3.15 In its recent formal consultation on the review of its licensing policy, the majority of responses supported the council view that only after detailed assessments of how the introduction of the new service provision will impact on the city have been completed, will the council be able to take a view on what revisions, if any, may be appropriate to its licensing policy. In particular the council needs to understand the impact that the new transport provision will have on the already busy West End, and policies relating to this area will not be relaxed solely because of the proposed changes in transport provision. It is however incumbent on the council to continue to keep all its policies under review and we will continue to do so, working with stakeholders to promote the city to its fullest extent, for the benefit of all.

Non-standard hours

- 2.3.16 In order to have conditions that are clear and enforceable the circumstances in which the non-standard hours will apply must be identifiable. This is to give an opportunity for representations to be made in relation to particular events and in order to provide predictability as to when non-standard hours will apply for the benefit of those who may be affected. The inclusion of particular national saints' days will have to be considered in relation to the overall number of events. The particular clientele of premises may be a reason to seek non-standard hours for other national days. There should be no expectation of specific non-standard hours for any particular day. Premises not benefiting from exemptions for New Year's Eve must seek it specifically or use a Temporary Event Notice.

2.4. Cumulative Impact Areas

2.4.1 The council acting as Licensing Authority is applying the special policies relating to cumulative impact as outlined in Revised Guidance (paragraphs 13.20 -13.39) to three limited areas in Westminster. These amount to less than 6% of the total area of the City of Westminster although they contain 36% of the licensed premises within the city including 64% of the night clubs, 35% of the pubs and pub restaurants and 49% of the restaurants and generate over 22% of all the evening and night time economy revenue in Westminster. These areas have been identified as Cumulative Impact Areas because the cumulative effect of the concentration of late night and drink led premises and/or night cafés has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses. The extent of crime and disorder and public nuisance in the Cumulative Impact areas arises from the number of people there late at night; a considerable number of them being intoxicated, especially in the West End Cumulative Impact Area. Public services, including police, health and emergency, transport, environmental services (cleansing and refuse services) are placed under chronic strain by existing levels of activity, as are civic amenities and the quality of residential life. The urban infrastructure cannot sustain any further growth in alcohol sales or in late night-time activity levels without accentuating the risk of a variety of harmful outcomes. The retention of people late at night contributes to the cumulative impact. This arises both from the lack of late night transport and the existence of facilities such as fast food outlets that encourage people to stay on after other licensed premises have closed. Evidence for this is set out in Appendices 12 and 13.

Cumulative Impact Areas

- The West End Cumulative Impact Area
- The Edgware Road Cumulative Impact Area
- The Queensway/Bayswater Cumulative Impact Area

See Appendix 15 for maps of the boundaries of these areas.

2.4.2 In the Cumulative Impact Areas, which have been identified as areas where special policies on cumulative impact apply, the Licensing Authority has policies which indicate refusal of applications for pubs and bars, fast food and drink premises and the provision of facilities for music and dancing other than applications to vary hours within the core hours under Policy HRS 1. This is a less restrictive approach than is suggested in Revised Guidance (paragraph 13.30) which suggests that licensing authorities can adopt a policy of refusing all new licences in areas where special policies on cumulative impact apply, subject to relevant representations being made. However, this effectively is a policy of fixed terminal hours for these limited types of premises; i.e. pubs, bars, music and dance venues, and fast food premises within the Cumulative Impact Areas. A policy of fixed terminal hours is consistent with Revised Guidance (paragraph 13.41). The Licensing Authority considers that it is better to grant variations within core hours to all premises in the Cumulative Impact Areas rather than have a policy to refuse all applications or to have to make exceptions in virtually every case. The Licensing Authority is generally prepared to grant reasonable limited longer hours by way of the core hours for all premises across the city. The problems in the Cumulative Impact Areas are generally later at night than the core hours. Without the provision to grant applications to vary hours within the core hours in the Cumulative Impact Areas customers in the Cumulative Impact Areas would leave the Cumulative Impact Areas around 23:00 in search of the additional hours available outside them. There are a very large number of licensed premises in the West End Cumulative Impact Area and the adverse effects on the licensing objectives consequent of this movement at 23:00 would be serious. The granting of licences for additional pubs and bars, or for uses which include bars, in the Cumulative Impact Areas will not generally be granted to the full extent of the core hours as these would generally add to cumulative impact. Policies CIP1 FFP2 and PB2 and MD2 are intended to be strict, and will only be overridden in genuinely exceptional circumstances. However, the Licensing Authority will not apply these policies inflexibly. It will always consider the individual circumstances of each application; even where an application is made for a

proposal that is apparently contrary to policy (Revised Guidance, paragraph 13.36).

- 2.4.3 It is not possible to give a full list of examples of when the council may treat an application as an exception. However, in considering whether a particular case is exceptional, the Licensing Authority will consider the reasons underlying the Cumulative Impact Area special policies on cumulative impact.
- 2.4.4 The Licensing Authority will not consider a case to be exceptional merely on the grounds that the premises have been or will be operated within the terms of the conditions on the licence, or that are or will be generally well managed because of the reputation or good character of the licence holder or operator. This is expected in the conduct of all licensed premises. Moreover, licences are for premises and can be easily transferred to others who intend to operate within the scope of the licence and its conditions. Neither will the licensing authority consider the case to be exceptional merely because the capacity of the premises, or any proposed increase in capacity is small. The high number of premises in a saturated cumulative impact area means that a small increase in capacity in each premises would lead to a significant increase overall within that area. It has been commonly argued that customers will be drawn from other premises and there will be no increase in people within the area. The experience of the council is that this is not the case. The massive increase in capacities in the past and, the continuing number of further applications and the observable night-time occupancy levels of premises serve to discredit the argument. Each incremental increase in capacity contributes in part to increasing the attraction of the area as a "honey pot" destination for night-life and to the cumulative problems created by such a high concentration of activity in the area.
- 2.4.5 The Licensing Authority's policies, in relation to the Cumulative Impact Areas, are directed at the global and cumulative effects of licences on the area as a whole. Therefore, a case is most unlikely to be considered exceptional unless it is directed at the underlying reason for having the policy. Exceptions to the Cumulative Impact Area policies to refuse certain types of applications must be for genuinely exceptional reasons.

- 2.4.6 Thus any list of circumstances where exceptions may be granted is not definitive. One example might be a proposal to transfer an existing operation from one premises to another, (i) where the size and location of the second premises is likely to cause less detrimental impact and will promote the licensing objectives, and (ii) where the existing operation would otherwise continue as before in the first premises. In order for this to be treated as a consideration justifying an exception to policy, the council will need to be satisfied that the necessary legal mechanisms are in place to ensure that the original premises licence will cease to be operable and cannot be transferred once surrendered. In considering whether there is likely to be less detrimental impact, the Licensing Authority will consider the actual operation of the premises which it is proposed should close, and it will take into account any future proposals which would affect the continued operation of those premises.
- 2.4.7 Another example would be the substitution of existing licensable activity at the premises with licensable activities which would have less impact on the area and would be more likely to further the licensing objectives. Similarly, the reduction in the capacity of a premises or a reduction in hours of operation might be a reason for an exception to policy. The police have found the reduction in capacity to be a proven method of promoting the licensing objectives in relation to the prevention of crime and disorder.
- 2.4.8 Applications for new licences to replace licences which have lapsed because of the failure to submit an interim authority notice in due time in the event of the death or insolvency of a licence holder will be considered by the licensing authority as possible exceptions. Unless there are representations that indicate there have been problems with the previous licence licences may be granted with conditions which replicate the effect of those of the previous licence and with conditions which bring the licence in line with good practice on other licences e.g. on door supervision. This will not apply to licences which have been surrendered or those which can have no practical effect because the premises to which they applied no longer exist, or will not continue to exist in their previous form, e.g. because of planned demolition or redevelopment.

- 2.4.9 The current policy recognises that well managed members clubs, which meet the qualifying criteria in the Act to operate under the authority of a club premises certificate, have little association with crime and disorder and public nuisance, because of their membership controls and the strict criteria which the premises must meet. In particular these “qualifying clubs” are often characterised by long standing membership which is valued by the member and gives a real incentive for the club to promote the licensing objectives in its neighbourhood. New members are often nominated and vetted by existing members and in all cases there is a delay of at least 2 days between the grant of membership and the use of the club by the new member. Membership is usually intended to be long term and often renewable annually, with a significant financial commitment on joining.
- 2.4.10 In contrast, many proprietary clubs may allow members to join on-line with little or no prior contact with the member. Joining fees may be nominal and membership short term. Access to the club may be extended to guests of the management or other categories of person to allow immediate access. Individuals attending premises operating private functions, which could include corporate or personal events, are not necessarily known to the management of the premises, although will be known to the event organiser. Access may also be permitted to guests of invitees or guests of the management. Moreover, persons leaving proprietary clubs and premises operating private functions will sometimes cause public nuisance or be involved in crime, either as perpetrators or victims.
- 2.4.11 The council is therefore of the view that there is a clear distinction in the character and operation between “qualifying clubs” and proprietary clubs and premises which promote private functions, and considers that proprietary clubs and premises which promote private functions are very likely to contribute to cumulative impact in the cumulative impact area and will often not offer sufficient control over their members to promote the licensing objectives.
- 2.4.12 The council therefore considers that in the cumulative impact areas premises which restrict access to general members of the public, such as proprietary

clubs and premises used for private functions, will not be considered to be exceptions to cumulative impact area policies for that reason alone.

- 2.4.13 Proximity to residential accommodation is a general consideration with regard to the prevention of public nuisance. However the absence of residential accommodation in the vicinity of premises in an area of cumulative impact is not a reason for exception. The nature of cumulative impact is that it is cumulative and affects not only the immediate vicinity of the premises, but a wider area; thus the number of people visiting the premises, the nature of licensable activities and the lateness of operations have an impact on an area as a whole, irrespective of whether or not there is residential accommodation in proximity to the premises.
- 2.4.14 Revised Guidance Paragraph 13.38 specifically recognises that applications to vary capacities are directly relevant to special policies of cumulative impact. This accords with the council's view and practice in considering applications to vary premises licences in the Cumulative Impact areas. Revised Guidance paragraph 13.34 continues to recognise that different types of premises have different impacts and it contrasts a large night club or a high capacity public house with a small restaurant or theatre. This continues to give support for policies directed at different types of premises and licensable activities in the Cumulative Impact Areas and treating restaurants differently from pubs and premises with music and dancing.
- 2.4.15 Revised Guidance paragraph 10.24 recognises that capacity conditions can be attached for the promotion of the prevention of crime and disorder and refer to appropriate ratios of tables and chairs based on the capacity and door supervision to control numbers on entry and exclude drunk or disorderly individuals. The council further consider that prescribed capacity and the provision of minimum levels of seating and tables can also promote the licensing objective of the prevention of public nuisance. Customers who have been seated in premises which are not crowded will behave differently; they are less likely to have been talking at high volume and will leave the premises more quietly than the greater number of customers in equivalently sized premises without capacity limits with more vertical drinking.

- 2.4.16 The introduction of measures to reduce the extent of or remove opportunities for vertical drinking can address the underlying reasons for the special policies for cumulative impact. This can be by introducing fixed seating and conditions to provide a minimum number of seats at all times and limiting sales to be by waiter or waitress service only.
- 2.4.17 The council receives applications for a range of premises wishing to sell alcohol which are neither pubs and bars, or restaurants, as defined in the policy. These premises may be cafes, with a significant food offer but without a requirement that alcohol is ancillary to food, delicatessens, with an existing retail and off licence provision, or premises with other retail or service uses which may not involve the provision of food at all. In some cases the proposal will be for a small bar area within the premises but operated separately from other activities within it. In other cases the sale of alcohol will be throughout the premises and integral to other activities.
- 2.4.18 Policy CIP1(ii) states that these premises are subject to other policies, and must demonstrate that they will not add to cumulative impact in the cumulative impact area. Hours policy HRS1(ii) states that applications for hours within the "core hours" set out in the policy will generally be granted, subject to not being contrary to other policies in the Statement of Licensing Policy.
- 2.4.19 Where premises are proposing the sale of alcohol for consumption on the premises there is always a potential that this will lead to an increased number of people consuming alcohol and for a longer period and which will add to existing cumulative impact.
- 2.4.20 The council however recognises that this will not always be the case. The availability of alcohol at lunchtime or in the early evening in premises where alcohol is ancillary to other uses of the premises and not associated with sustained or high alcohol consumption to later hours may not be likely to add to cumulative impact in the cumulative impact area.

- 2.4.21 The council therefore considers that where applications for licenses to sell alcohol for consumption on the premises are made and (i) are appropriately conditioned so that the consumption of alcohol is not, and cannot become, a significant part of the operation of the premises and is regulated to promote responsible drinking; (ii) where the character of the premises is such that its customers are not likely to be involved in sustained or heavy drinking at later hours; and (iii) when the sale of alcohol is not permitted beyond 20.00 hours; then permitting the sale of alcohol for consumption on the premises is unlikely to add to cumulative impact in the cumulative impact area.
- 2.4.22 Examples of appropriate conditions to ensure that alcohol consumption is appropriately regulated may include conditions that (i) only permit the sale of alcohol ancillary to the provision of food, or ancillary to other activities at the premises, or to the operation of the premises as a whole, (ii) require service of alcohol to be only by waiter or waitress to seated persons, and without the provision of a physical bar or facility for self service, (iii) require the licensed area to remain under the management of the premises licence holder with the licence being limited to their personal use (iv) require the consumption of alcohol to be restricted to an area which is an integral part of the premises with access to that area only through the premises and with no direct access to the street.
- 2.4.23 The extension of hours beyond the core hours is of concern as there are greater problems of late night transport and disturbance. Late at night there is less masking background noise and disturbance is greater if people are trying to sleep or are woken up. Hours later than the operation of London Underground services add to the pressure on the limited facilities for transport late at night; a large number of nightclubs that close at 03:00, and police and emergency services resources become tied up as the night progresses in dealing with problems from earlier in the night.
- 2.4.24 The council will consider whether offers to set capacities (maximum numbers of people permitted to be on the premises) for the first time in premises which have not previously had set capacities (generally pubs and bars and restaurants) and whether offers to reduce capacities, actually do effectively

address the underlying reasons for a policy on cumulative impact. There would have to be substantial reductions in relation to the capacity at which premises had actually been operating. Any proposals for later hours which offer reducing the capacity will have to be shown to lead to a reduction in cumulative impact and represent genuine reductions in the actual number of people using the premises at its peak times and late at night and not on days or at times when the premises are less busy. The later the hours sought, the more significant the reduction in capacity would have to be.

Special policy on cumulative impact in Cumulative Impact Areas - Policy CIP1

(i) It is the Licensing Authority' s policy to refuse applications in the Cumulative Impact Areas for: pubs and bars, fast food premises, and premises offering facilities for music and dancing; other than applications to vary hours within the Core Hours under Policy HRS1.

(ii) Applications for other licensable activities in the Cumulative Impact Areas will be subject to other policies, and must demonstrate that they will not add to cumulative impact in the Cumulative Impact Areas.

Reasons for the Cumulative Impact Area Policy CIP1

- 2.4.25 The reasons for the Cumulative Impact Area policies and how the boundaries of the areas were identified are found in Appendix 14. Evidence of the effect of the cumulative impact of licensed premises of various types is found in Appendix 12. The Licensing Authority' s view is that cumulative impact in the

Cumulative Impact Areas arises mainly from the numbers of pubs and bars, music and dance premises and fast food premises. The Licensing Authority wishes to encourage the provision of a range of entertainment where this is suitable and to reduce the extent of dominance of pubs, bars and night clubs in the West End Cumulative Impact Area and of fast food premises in all the Cumulative Impact Areas.

2.4.26 It should be noted that the council employs a range of mechanisms to prevent or limit cumulative impact relating to the problems arising from premises, and their customers behaving badly or unlawfully once away from the premises. See Revised Guidance (paragraph 13.40). The measures currently available to the council are given as examples such as:

- Planning policies
- Westminster Wardens
- Neighbourhood crime reduction service
- Extensive CCTV coverage in the West End;
- Additional portable urinals, and 24-hour street cleansing;
- Orders to give the police powers to stop street drinking and seize alcohol and receptacles
- Use of Dispersal Orders
- Joint operations on illegal minicabs

2.4.27 The police have re-deployed their resources to allocate more officers to the night shifts and are key partners in the CCTV initiatives, in preventing street drinking and confiscating alcohol. They are also involved in joint initiatives with the council in operations on illegal minicabs and in close day to day collaboration through neighbourhood crime reduction teams and with Westminster Wardens.

Reviews in Cumulative Impact Areas

Reviews in areas of special policies relating to cumulative impact - Cumulative Impact Areas - Policy CIP2

In deciding what steps, if any, are necessary to promote the licensing objectives in the determination of a review of a premises licence in a Cumulative Impact Area, that the premises are in an area where special policies of cumulative impact apply and the need to reduce the cumulative impact of licensed premises within the Cumulative Impact Area, will be taken into account.

Reasons for the Cumulative Impact Area Policy CIP2

- 2.4.28 Existing premises licences that have a negative impact on the licensing objectives contribute to cumulative impact and this may be reduced if appropriate steps are taken on reviews of individual licences that are creating particular problems.
- 2.4.29 The Government's Revised Guidance on reviews (Paragraph 11.7) includes a statement that:

"Following the grant or variation of a licence or certificate, a complaint regarding a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to a particular premises, which would allow for a proper review of its licence or certificate" .

The Government's Revised Guidance 13.37 states:

"Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the licensing authority has concerns about the effect of activities at existing premises between midnight and 6am on the promotion of the licensing objectives in a particular area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so. The "cumulative impact" on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, "cumulative impact" relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary."

- 2.4.30 Taking Revised Guidance into account, and also the continued existence of some serious problems of nuisance in the Cumulative Impact Areas, the Licensing Authority may, in determining reviews of individual premises licences in a Cumulative Impact Area, take into account the fact that the premises are in an area of special policies on cumulative impact, when considering what steps are appropriate to take to promote the licensing objectives. The fact that premises are in an area where special policies on cumulative impact apply cannot of itself be the grounds for revoking a licence on review. However, in deciding what steps it should take to promote the licensing objectives, the Licensing Authority will take into account the effect the premises licence and its operation have on the licensing objectives, within the context of the underlying reasons for the designation of the area as one where special policies on cumulative impact apply.

2.5. Premises Licences – policies by types of use **Restaurants**

Introduction/definitions

- 2.5.1 Policies RNT1 and RNT2 only apply to those premises that are proposed to be used as a restaurant as defined in this section of the policy, and not to fast food premises. The policy distinguishes between restaurants, where dining is the main evening activity for its customers, and fast food premises which at certain hours are likely to attract and provide food for people at the end of an evenings' drinking.
- 2.5.2 Fast food premises provide late night refreshment either by way of take-away food for immediate consumption, or fast food on a counter or self-seating basis. These types of premises are in general more likely than restaurants (as defined in this section) to lead to people remaining on the streets of the Cumulative Impact Areas or returning rapidly to those streets. If no fast food premises were available people would be more inclined to disperse, and in retaining people until a later hour these fast food premises undermine the objective of timely dispersal. Late at night, it is likely that they would be attractive to persons who have been drinking elsewhere. The licensing authority considers that seeking to minimize the number of people on the street late at night, through rapid dispersal, especially those who have been drinking, is fundamental to promoting the licensing objectives of the prevention of crime and disorder, public nuisance, and public safety. The council comes to this view notwithstanding the benefits which may be offered by well run fast food premises in terms of security, staff, CCTV, toilets, and the provision of a safe environment in which to wait until transport is available. These aspects have been considered by the council but are outweighed by the need for more rapid dispersal from the area in order to promote the licensing objectives.

- 2.5.3 For the purposes of this policy a restaurant is therefore defined as premises (i) in which customers are shown to their table, (ii) 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, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals. The sale and consumption of alcohol prior to such meals may be in a bar area but must also be ancillary to the taking of such meal. Where an application is to be considered under the policies which apply to restaurants, following relevant representations, conditions restricting the premises in accordance with this definition may be attached. These might include: requiring alcohol to be served only by waiter/ waitress service, customers to be only served while seated, and the sale of alcohol only to persons taking a substantial table meal for consumption ancillary to that meal. The council may attach conditions limiting the hours and/or capacity of premises for the sale of alcohol in ancillary restaurant bar areas prior to meals. The council is particularly concerned that restaurant premises in the cumulative impact areas do not, even in part, come to operate as bars and particularly not as “vertical drinking” premises where customers consume alcohol standing throughout the evening. Submission has been made that not every individual in a group may wish to eat, but should not be prevented from accompanying diners and having a drink. The council, however, is not minded to relax conditions for restaurants where alcohol may only be consumed by persons as an ancillary to their substantial table meal. However, it will prioritise its enforcement efforts at preventing a change of character of the premises towards bar use.
- 2.5.4 When making an application for a premises licence the extent of the premises is defined by the applicant. The premises may consist of a building or part of it, a private outdoor space associated with the building, or an area of public highway adjacent to the building.

- 2.5.5 A restaurant for example may seek to use tables and chairs on an area of the adjoining pavement in a similar way to the way it uses rooms inside its restaurant building. To enable licensable activities to be provided both inside the building and on the pavement area the applicant may define the premises as including both the restaurant building and the area of the pavement it intends to use.
- 2.5.6 Whilst the premises licence may authorise the provision of licensable activities it cannot authorise the use of an area of highway for that activity. Permission for the use of the highway is considered separately, and in this example, a tables and chairs licence must also be obtained before the restaurant can operate any activity on the pavement. The tables and chairs licence will define the extent of the area, and the numbers of tables and chairs which may be used on the pavement.
- 2.5.7 The council is concerned that granting a premises licence which includes an area of public highway within a premises is confusing and may mislead by wrongly implying that permission for the use of the highway is being given. That is not to say that permission for the provision of licensable activities on the highway may not be granted where an appropriate tables and chairs licence is or will be in force and the licensing objectives would be promoted, but the council would prefer to permit such licensable activity to be conditioned as an exceptional "off sale" to an area appropriately authorised by a tables and chairs licence. An appropriate condition might state; The consumption of alcohol sold for immediate consumption off the premises shall be limited to any area of the highway immediately adjacent to the premises in respect of which the licence holder is in possession of a separate and current authorisation to place and use tables and chairs in that area.
- 2.5.8 The council's intention therefore is that a premises licence should not generally include any area of public highway intended for use for tables and chairs, notwithstanding that where appropriate licensable activities will be permitted on the highway where the use of tables and chairs is appropriately authorised.

- 2.5.9 New applications or variations for premises licences seeking permission to sell alcohol for consumption on the premises other than in respect of restaurant premises will be considered under other relevant policies in this statement. The operation of premises with a new premises licence granted as a restaurant solely under restaurant policies RNT1 or RNT2 may not include independent use of the bar or entertainment. Bar use and entertainment would have to be specifically sought and considered under policies appropriate to these activities. Policies include PB1 and PB2 on pubs and bars outside and within Cumulative Impact areas, and Policies MD1 and MD2 on music and dancing outside and within Cumulative Impact Areas and other relevant policies. The provision of incidental music “background music” does not require a licence. Applicants should bear in mind paragraph 15.59 of Revised Guidance and “whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act” .
- 2.5.10 Should a restaurant apply for permission to supply late night refreshment, that is the supply of hot food or hot drink at any time between the hours of 23.00 and 05.00, then, in the event of relevant representations being received, the licensing sub-committee will have regard, amongst other matters, to the desirability of encouraging the rapid dispersal of people from the Cumulative Impact areas, and the times of closing of other premises in the vicinity.
- 2.5.11 The Cumulative Impact Area boundaries are shown on the maps at Appendix 15.

Restaurants outside the Cumulative Impact Areas

- Policy RNT1

Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

Restaurants within the Cumulative Impact Areas

- Policy RNT2

Applications will be granted subject to other policies in this Statement and subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1, provided it can be demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

Reasons for Policies RNT1 & RNT2

2.5.12 The wide variety of restaurants is a feature of Westminster and contributes to its status as a world class city. Restaurants of various types attract people over a wide range of ages. Restaurants where there is no music and dancing, where customers are seated and served at tables, may appeal particularly to families or older customers. It is recognised that restaurants, as defined in this section, have little association with crime and disorder.

- 2.5.13 A study of crime reports in licensed premises in Westminster from April 2009 to March 2010, indicated on average that for every 10 restaurants there were just 3 violent incidents in the year. This compares to 8 incidents for every 10 pubs/pub restaurants and 37 for every 10 nightclubs during the year. (see Appendix 12).
- 2.5.14 It is necessary to recognise that activities in restaurants continue after licensable activities have ended for longer than in many other types of premises. This includes customers finishing their meals and paying the bill, and the clearing up in the kitchen and the public parts of the restaurant. There may also be handling and removal of waste and recyclable materials but this can also be done the next day. These activities can give rise to public nuisance. Restaurants with converted "supper hours certificates" can serve alcohol to midnight and to 23:30 on Sundays where ancillary to table meals. New restaurant premises will generally be granted the core hours (for premises that serve alcohol for consumption on the premises) in line with Policy HRS1. These are times when customers are permitted to be on the premises. The granting of later hours for restaurants would depend on the extent to which the service of customers, closing up operations and customers leaving premises would be likely to give rise to public nuisance and crime and disorder. This would take into account the extent of activities, the operation of plant and equipment and the proximity of residential property. If there are representations made, conditions may be imposed that the sale of alcohol in restaurants later than core hours must be as part of the continuing service and consumption of a table meal at the same table. i.e. no retiring to the bar This is in order to ensure that restaurants continue to function as restaurants and not as late-night bars. When considering applications for the sale of alcohol after 01:00 where representations are made on the grounds of prevention of crime and disorder or public nuisance, the council will take into account the increased likelihood of crime and disorder and the greater disturbance from activities late at night.
- 2.5.15 For this reason, the Licensing Authority will generally grant premises licences and variations for restaurants outside the Cumulative Impact Areas subject to

criteria related to the licensing objectives. A stricter approach to restaurants in the Cumulative Impact Areas has been adopted due to the current cumulative impact issues discussed in Appendices 12 and 14.

2.5.16 It is recognised that late night refreshment premises play an important role by providing food and drink for visitors and workers and for some residents late at night. However because of the late hours that they operate, public nuisance can arise from these premises that affects residents and businesses. This is particularly from premises selling hot food or hot drink for consumption off the premises. Therefore, the Licensing Authority will give separate consideration to those late night refreshment premises offering the sale of hot food or drink for consumption off the premises. Where it is proposed to sell hot food and hot drink to standing customers or at fast food premises or for consumption off the premises (take-away), the application will be considered under policies FFP1 and FFP2.

Fast Food Premises

Introduction/definitions

2.5.17 These policies apply to fast food premises, which are defined for the purposes of this policy as premises that provide late night refreshment either by way of take away for immediate consumption, or fast food on a counter or self seating basis. Late night refreshment premises are defined in the Glossary. The Cumulative Impact Area boundaries are shown on the maps at Appendix 15.

Premises supplying fast food outside the Cumulative Impact Areas - Policy FFP1

Applications will only be granted if it can be demonstrated that the proposal meets relevant criteria in Policies CD1, PS1, PN1 and CH1.

Premises supplying fast food inside the Cumulative Impact Areas - Policy FFP2

It is the Licensing Authority' s policy to refuse applications in the Cumulative Impact Areas, other than applications to vary hours within the Core Hours under Policy HRS1.

Reasons for Policies FFP1 & FFP2

2.5.18 Fast food premises which are open after 23.00 can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people

around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are more likely to be involved in anti-social behaviour.

2.5.19 The Metropolitan Police have raised concerns about the levels of crime and disorder that happen outside fast food premises late at night due to alcohol fuelled behaviour, and the opportunities for crime afforded by the congregation of people. Studies of 11 major fast food premises in Westminster show that they have a comparatively high association with reports of crimes of violence against the person. The consumption of food outside premises can result in food waste and litter on pavements, to an extent that amounts to a public nuisance. Crowding the pavement and the dropping of litter late at night can make effective street cleaning impossible at that time.

2.5.20 These issues are of particular concern in the Cumulative Impact Areas where there are high concentrations of fast food premises in addition to other licensed premises. On this basis and because the attraction and retention of people by the premises mitigates against their rapid dispersal from the cumulative impact areas, the Licensing Authority considers that the grant of variations or new licences for fast food premises in the Cumulative Impact Areas should be limited to exceptional circumstances. See paragraphs 2.4.3 to 2.4.13 on exceptional circumstances.

Public houses and bars

Introduction/definitions

- 2.5.21 These policies apply to premises being used exclusively or primarily for the supply of alcohol for consumption on those premises. It excludes music and dance premises and other premises as defined in separate policies. The Cumulative Impact Area boundaries are shown on these maps at Appendix 15.

Public houses and bars outside the Cumulative Impact Areas - Policy PB1

Applications will only be granted if it can be demonstrated that the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

Public Houses and Bars in the Cumulative Impact Areas - Policy PB2

It is the Licensing Authority' s policy to refuse applications in the Cumulative Impact Areas other than applications to vary hours within the Core Hours under Policy HRS1.

Reasons for Policies PB1 & PB2

- 2.5.22 The wide variety of pubs and bars are part of Westminster' s appeal and its character and they provide for residents and for people working in and visiting the city. They also provide venues for live music which, aside from its cultural benefits and its enjoyment by customers, often has a positive effect on

licensing objectives. However, premises that primarily serve alcohol, with or without the provision of any ancillary playing of music, can give rise to public nuisance for residents and other businesses, particularly where there is a concentration of such premises. This is principally due to noise from the premises and from patrons when they leave. Pubs and bars present opportunities for crime and they can also give rise to disorder.

2.5.23 This is of particular concern in Cumulative Impact Areas where there had been a growth in the number of premises that primarily serve alcohol, resulting in or adding to cumulative impact. On this basis, the Licensing Authority considers that the grant of variations or new licences for pubs and bars in the Cumulative Impact Areas should be limited to exceptional circumstances. See paragraphs 2.4.2-2.4.13 on exceptional circumstances. The provision of a bar within a workplace solely for the use of those working there, and their invited guests, will generally be regarded as an exception to the policy not to grant new bars in the Cumulative Impact Areas. Regard will be had to other policies in this Statement and the hours of operation of the workplace, the hours and extent of the use of the bar and the effect on cumulative impact in the Cumulative Impact Areas. The off sale of alcohol and drinking outside the premises would also be of concern.

Off sales of alcohol

Introduction/definition

2.5.24 This policy applies to premises where the sale of alcohol is exclusively for consumption off the premises, i.e. shops, stores and supermarkets etc.

Off sales of alcohol outside the Cumulative Impact Areas - Policy OS1

Applications will generally be granted and reviews determined subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement

Off sales of alcohol within the Cumulative Impact Areas - Policy OS2

Applications will be granted subject to the relevant criteria in Policies CD1, PS1, PN1 CH1 and HRS1 and other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

Reasons for Policies OS1 & OS2

2.5.25 Paragraph 10.15 of Revised Guidance recommends that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours,

unless there are good reasons, based on the licensing objectives, for restricting those hours. This is in the context of paragraph 10.13 of Revised Guidance which states that licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on local knowledge and in consultation with responsible authorities.

2.5.26 There are problems of street drinking found across the city. While there are some areas with recurring problems of street drinking 'schools', they also crop up in different areas at different times and seasons. Shops selling alcohol can be a focus of antisocial behaviour, disorder and disturbance. These include the day-long consumption of alcohol on the street and in open spaces by groups of drinkers who cause various types of public nuisance and engage in antisocial behaviour. In the Victoria area, for example, new licences for the off sale of alcohol will be considered in the light of the problems of street drinking in that area and may be restricted in their numbers and have conditions imposed on their management and supervision. The sale of alcohol to underage young people which apart from being a criminal offence, gives rise to disorder, public nuisance and concerns over public safety and harm to children. The sale of alcohol to people who consume it on the way to other premises gives rise to problems of drunkenness and disorderly behaviour. The proliferation of premises for the sale of alcohol off the premises is of concern if it leads to consumption of alcohol on the streets or being carried into premises licensed to sell alcohol on the premises. In light of the evidence it has considered, the council is concerned that alcohol loading from off licence sales is a significant problem in the West End and adversely affects the licensing objectives. Whilst it is likely that off licence sales after core hours are likely to add to cumulative impact in the cumulative impact areas it is not however, satisfied that a general presumption against new off licences, or restricting their hours below core hours, is an effective means of promoting the licensing objectives. Core hours are those set out in the policy HRS1 which will generally be granted, subject to not being contrary to other policies in the licensing statement. For off-licences these hours are 08:00 to 23:00 on Monday to Saturday, and 10:00 to 22:30 on Sundays. However, if there is evidence of alcohol loading from a specific off licence premises which is undermining the

licensing objectives, after review, the licence may be revoked, or measures may be imposed which would restrict the hours that the premises can sell alcohol, e.g. so that it shall not be sold after 20:00.

- 2.5.27 Some shops and supermarkets selling alcohol in Westminster's commercial and residential areas have been a focus for anti-social behaviour, disorder and disturbance. This has been caused by street drinkers and underage drinkers who have tried to obtain or have obtained alcohol from such premises. Due to these concerns over crime, disorder and disturbance, the Licensing Authority will not, as a general rule, grant applications for the 24-hour sale of alcohol for consumption off the premises. It will consider seriously any representation made by the police, other responsible authorities, and relevant representations from other persons and will take into account Policy HRS1 in determining applications.
- 2.5.28 The council has introduced a controlled drinking zone across the whole city, by making orders to give police powers to stop street drinking and seize alcohol and receptacles under the powers of the Criminal Justice and Police Act 2001. Originally it introduced such a zone in the south of the city centred on Victoria. It extended this zone northwards in April 2004, acknowledging that the problems were widespread and that the awareness of the boundary of the zone gave rise to drinkers congregating just outside it. Short term Dispersal Zones have also been used in various parts of the city to break up street drinking "schools" and disrupt patterns of street drinking.
- 2.5.29 Where the police or others make representations against the grant of a further licence for off sales, because of their serious concerns over problems of street drinking or late night disorder associated with the off sale of alcohol in the area, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. This is to hinder both underage drinkers, and problematic street drinkers masking their consumption by purchasing from a series of premises and using a number of premises to try to buy alcohol if they are refused in one. The council will want to be assured that the Operating Schedule of premises, and their overall management and training and levels of staffing, are

appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. The earliest hours of opening will be of concern. This is because problematic street drinkers, and other people who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning than other premises and create public nuisance. Where there are representations on problems of late night disorder (these are generally the Cumulative Impact Areas) the hours when alcohol may be sold for consumption off the premises may be conditioned to be less than the generally granted core hours.

2.5.30 When requested by the police, the Licensing Authority may impose conditions that there should be no sale of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 5.5% alcoholic content by volume). Other conditions may be imposed directed at reducing problematic street drinking. There will be concerns over irresponsible drink promotions that do not follow best practice, that would appeal to underage drinkers or street drinkers or encourage excessive consumption.

2.5.31 The Licensing Authority will impose, where appropriate to promote the licensing objectives, conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18, Licence holders of smaller outlets need to have sufficient day to day control of operations. They can be held responsible for breaches of the licence and ensuring there is adequate staffing and training. The council will continue to use young people for test purchasing of alcohol and CCTV, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of review of licences for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder and, where appropriate, revocation.

2.5.32 In appropriate cases, the hours of selling alcohol for consumption off the premises may be conditioned, to cease the supply of alcohol before the hours of premises in the vicinity supplying alcohol for consumption on the premises.

This is to discourage the consumption of alcohol on the streets after premises in the vicinity selling alcohol for consumption on the premises have closed.

Theatres, cinemas, other performance venues, and qualifying clubs

Introduction/definition

2.5.33 These policies apply to a wide range of premises including:

- theatres, cinemas, concert halls and other performance venues providing regulated entertainment
- qualifying clubs requiring club premises certificates (see Glossary)
- outdoor events involving licensable activities other than providing facilities for music and dancing.

Bars are a normal feature of performances venues but they should be ancillary to the overall use of the premises as a performance venue. The hours of the operation of the bar will usually be those related to the times the premises are open for performances and should not extend later than the hours of performances. Any more general use of these bars in Cumulative Impact Areas will only be granted as an exception to policy which will have to be argued for on grounds that it will not add to cumulative impact in the Cumulative Impact areas and will promote the licensing objectives and the overall aims of the Statement of Licensing Policy of promoting a variety of non alcohol led activities

2.5.34 These policies also apply to any premises requiring a premises licence other than:

- those premises defined as a restaurant or a late night refreshment premises (see policies RNT1 and RNT2)
- those premises defined as fast food premises (see policies FFP1 and FFP2)

- those premises primarily for the sale and consumption of alcohol on the premises(see policies PB1and PB2)
- venues where facilities are included for enabling persons to take part in entertainment (see policies MD1 and MD2)
- casinos and hotels where specific policies apply (see policies HOT1 and CAS1)
- premises selling alcohol for consumption off the premises (see policies OS1 and OS2)
- outdoor areas such as parks and squares where regulated entertainment, particularly if facilities for music and dancing, are provided

2.5.35 The detailed Cumulative Impact Area boundaries are shown on the maps at Appendix 15.

Theatres, cinemas, other performance venues, and qualifying clubs outside the Cumulative Impact Areas - Policy PVC1

Applications will generally be granted and reviews determined, subject to the relevant criteria in Policies CD1, PS1, PN1 and CH1.

Theatres, cinemas, other performance venues, and qualifying clubs in the Cumulative Impact Areas Policy - PVC2

Applications will be granted subject to other policies in this Statement, provided it is demonstrated that they will not add to cumulative impact in the Cumulative Impact Areas.

Reasons for Policies PVC1 & PVC2

- 2.5.36 The council welcomes the vital contribution that theatres, cinemas, concert halls and other performance venues make in providing the diverse cultural and entertainment that attracts people of all ages into Westminster, and maintains its status as a world class city. The council as the Licensing Authority accepts that these types of uses are unlikely to be linked with crime and disorder, and generally have less impact on residents than other licensable activities. The substitution of these types of uses in the Cumulative Impact Areas in place of pubs, bars and alcohol led music and dance venues will be likely to promote the licensing objectives.
- 2.5.37 Westminster contains a number of well-known traditional clubs and other clubs that will be Qualifying Clubs (see Glossary). Through their membership controls, qualifying clubs have little association with crime and disorder and public nuisance.
- 2.5.38 Performance venues will be subject to conditions on public safety related to the staging of special effects, and the exhibition of film is subject to mandatory conditions on the admittance of children.
- 2.5.39 Outdoor spaces where licensable activities take place are defined as “premises” under the Licensing Act 2003. The Royal Parks Agency and its

predecessors have for many years hosted and facilitated a wide range of nationally significant musical and other events. The Mayor has similarly organised events in Trafalgar Square often focussing on the rich cultural and ethnic diversity of London. There have been proposals at Lords Cricket ground for licensable activities. The council itself has a programme of smaller events in its parks with occasional larger events over wider areas. There are other occasional events in squares. The range and diversity of these events may make it desirable to have provisions in the licence for a specific “event plan” to be agreed for each event rather than to rely solely on conditions within the premises license.

2.5.40 Some of these events because of their prominence attract very large crowds. Sound from outdoor events is not enclosed and carries across the city and therefore may cause widespread nuisance. The British climate dictates that most proposals are made in the summer months. The extent and frequency of these events in relation to the areas where the impact is felt will be considered in determining applications for premises licences for outdoor licensable activities, and the imposed conditions will reflect this. When subsequent applications are received for the same, or part of the same, area to be licensed for additional activities or events, the council will take into account the cumulative effect over a period of time of the events which have already taken place or are planned at the open space, under all of the licences which may have authorised events at the open space. Licences for large open spaces are generally restricted in the intensification of their use and the involvement of Safety Advisory Groups for significant events provides a flexible mechanism for consultation.

2.5.41 Under the Licensing Act 2003 the council holds a number of its own premises licences, covering some of the City’s busiest and highest profile areas (including Maida Hill, Piccadilly, Whitehall, Covent Garden, Leicester Square, Soho, Regent Street and Oxford Street). These are known as Area Premises licences.

2.5.42 These licences, held by the council, enable the safe, controlled facilitation of event activities. Specifically, by making use of this framework, event organisers

are enabled to submit their plans to the multi-agency LOSPG (Licensing, Operational and Safety Planning Group) event planning process, under the 'umbrella' of an area licence held by the Council. In this way proper consideration can be given to the whole range of factors that are relevant in deciding whether a given event proposal ought to be permitted, such as traffic and pedestrian congestion, local consultation, the appropriateness of an event to its proposed locale, and the management of litter and waste.

2.5.43 The use of the Area Premises Licences has been largely successful. The Area Premises Licences require a named person of experience and proven competence to be responsible for compliance with the set conditions, co-ordination and planning. The council's Special Events Group therefore holds the Area Premises Licences on behalf of Westminster City Council. There is a general recognition by all concerned that Area Premises Licences have a part to play in the overall licensing system. They can be ideal for small, low impact community event activities that align to defined criteria, removing a bureaucratic/regulatory burden, and have been used as such. They also assist in the facilitation of "last minute" event applications that the City Council wishes to support and they can afford the council a robust level of control over the way event activities are planned and executed on the ground.

2.5.44 When an event proposal entails any form of licensable activity, the most appropriate means of licensing it must be identified by the council at an early stage. An event activity may be licensed by way of its own Premises Licence or, for event activities within the relevant geographic areas, permission can be sought to use one of the Area Premises Licences held by the City Council. The City Council wishes to ensure that local residents and others have the opportunity to have their say in appropriate circumstances regarding licensing decisions that may affect them and this includes the use of Area Premises Licences.

2.5.45 However, an event will only be authorised under an Area Premises Licence held by the council when it is appropriate to do so to promote the licensing objectives, and will not do so where it considers that wider consultation of the application is considered appropriate.

Music and dance premises and similar entertainment

Introduction/definitions

2.5.46 These policies apply to premises where there is the provision of music or dancing or similar entertainment. Generally these venues also serve alcohol. The Cumulative Impact Area boundaries are shown on the maps at Appendix 15.

Provision of music and dancing or similar entertainment or the provision of facilities for music and dancing or similar entertainment outside the Cumulative Impact Areas - Policy MD1

It is the Licensing Authority's policy that applications will only be granted if the proposal meets the relevant criteria in Policies CD1, PS1, PN1 and CH1.

Provision of music and dancing or similar entertainment or the provision of facilities for music and dancing or similar entertainment

within the Cumulative Impact Areas - Policy MD2

It is the Licensing Authority' s policy to refuse applications in the Cumulative Impact Areas, other than applications to vary hours within the Core Hours, under Policy HRS1.

Reasons for Policies MD1 & MD2

2.5.47 Music and dance venues are an important part of London' s entertainment offer. Night clubs are an inherent part of the social life for many young people in Britain. However the provision of music and dancing, especially with loud amplified music, and the large numbers of people attending venues and congregating outside them, can lead to concerns over public nuisance and in some cases crime and disorder. Night club premises in Westminster had more than 50 reports of violent crime per ten premises in the past year (see addition to Appendix 12). The police' s experience is that some people who visit music and dance venues carry controlled drugs for recreational use or to sell to others. Entertainment by the performance of dance does not generally give rise to these concerns to the same degree, but the playing of music and the noise from the audience can give rise to nuisance. If the dance performance involves nudity or partial nudity Policy NS1 will apply unless the premises is operating under a SEV licence.

2.5.48 There is particular concern in the Cumulative Impact Areas where there has been a growth in the number of entertainment premises and other licensed premises (see Appendices 12 and 14). On this basis the Licensing Authority considers that the grant of variations or new licences for premises offering facilities for music and dancing in the Cumulative Impact Areas should be limited to exceptional circumstances. See paragraphs 2.4.3 to 2.4.13 on exceptional circumstances.

2.5.49 Outside the Cumulative Impact Areas, more scope has been provided for the establishment of new premises licences where they are not in conflict with the licensing objectives.

Conditions

2.5.50 The Licensing Authority will expect the applicant to provide an operating schedule that details the drug policy in operation at the premises. It may require a condition that customers entering the premises are subject to searches by trained door supervisors, together with conditions in line with the recommendations in "Safer Clubbing" .

2.5.51 The Licensing Authority will have regard to measures to prevent crime and disorder, as outlined in Appendices 7 and 9, and in guidelines on crime prevention such as "Safe and Sound"³ and will impose conditions as appropriate.

³ "Safe and Sound" is a guidance leaflet on safety with regard to drugs and weapons published by the Metropolitan Police 2004

Hotels

Introduction/definitions

- 2.5.52 Major hotels in Westminster and some other hotels provide a range of licensed activities including entertainment for hotel residents and others, and provide venues for conferences, celebrations and parties. These are important long established central London activities.
- 2.5.53 The playing of films and non-broadcast TV in hotel bedrooms is regulated entertainment and hotels should include it in applications.

Hotels Policy - HOT1

Subject to the effect on the promotion of the licensing objectives and other relevant policies in this Statement, premises licences for hotels will generally be granted so that:

(a) Alcohol is permitted to be sold at any time to people staying in hotel rooms for consumption on the premises.

(b) The hours of serving alcohol to the general public will be subject to conditions limiting the sale of alcohol after a specified time to those attending pre-booked events held at the hotel.

(c) The exhibition of film, in the form of recordings or non-broadcast television programmes to be viewed in hotel bedrooms, will generally be permitted.

Reasons for policy HOT1

- 2.5.54 Hotels commonly seek extended hours in order to hold events for non-residents which they would have previously done under occasional licences and cannot do so under Temporary Event Notices because of the limits which apply to temporary permitted activities, (see section 2.6 of this policy below).
- 2.5.55 Hotels have, under the previous regime, been able to serve alcohol to residents at any hour although hotel bars are generally closed before 02:00. This provision allowed for room service and minibars in rooms. New hotels generally will want to offer the same provision as existing hotels.
- 2.5.56 Hotels also commonly want to allow bona fide invited guests of residents to be able to buy alcoholic drinks on their own behalf after alcohol sales to members of the general public have ceased. This provision will generally be granted but it may be subject to conditions limiting such sales (e.g. by time or number of guests) if representations are made that these provisions are likely to be, or have been abused, or are likely to lead to adverse effects on the licensing objectives.
- 2.5.57 The extent and location of provision of bar facilities will be taken into account. Hotel bars that are directly or easily reached from the street will be likely to raise similar concerns to pubs and bars. The advertising of the operation of late bars by hotels would give rise to concerns in relation to the licensing objectives. The provision of off sales may be restricted in relation to the hours of operation on the premises and with regard to its effect on the licensing objectives.

Casinos

Introduction/definitions

- 2.5.58 Casinos are licensed for the sale of alcohol and since 2002 are no longer prohibited from serving drinks at gaming areas. However, they must ensure they are provided in a way which does not disturb or threaten the orderly conduct of the gaming. The restrictions on live entertainment in casinos were removed by the Gaming Clubs Licensing Amendment Regulations 2002 (SI No 1910/2002), which came into force on 12 August 2002. They are no longer prohibited from providing entertainment but do so as ancillary to the gaming and as a private place of entertainment. Casinos no longer have to be private clubs since the provisions of the Gambling Act 2005 came into effect on 1 September 2007. The requirement for identity checks at casinos has led many casinos to continue to operate membership schemes. Casinos have sought premises licences for the sale of alcohol and regulated entertainment alongside the licences they need for gaming and gambling. There are, at the time of writing this statement, 20 casinos in Westminster. A number of proposals for additional casinos had been granted by the council as a Planning Authority although the number of casinos in Westminster is now limited by the number presently in existence, as no new licences can be issued under the Gambling Act 2005 until the Secretary of State makes an order to allow the authority to permit casino premises licences.
- 2.5.59 Proposals for new style casinos under the Gambling Act 2005 can only be submitted for 17 sites identified by the Casino Advisory Panel and approved by the Parliament for the initial period of the operation of the Gambling Act 2005. Westminster was not identified and Parliament has not approved any sites.
- 2.5.60 The hours for casino gambling are set by way of default conditions on converted licences to be midday until 06:00 every day of the week. However casinos can seek longer hours by application for a premises licence under the Gambling Act 2005. The provision of regulated entertainment, the sale of

alcohol, and late night refreshment, and hours for these activities, are separately regulated under the Licensing Act 2003.

Casinos Policy - CAS1

The inclusion of regulated entertainment and extension of the hours for the sale of alcohol ancillary to the playing of casino games in casinos will be considered in relation to the likely effect on the licensing objectives.

Reasons for policy CAS1

- 2.5.61 Casinos operating under the Gambling Act 1968 were primarily for the playing of casino table games. The number of Gaming Machines is still limited to 20. People gambling at table games do not tend to drink excessively. The popularity and nature of casino premises may change through the removal of membership requirements. However, it is likely that alcohol consumption will continue to be limited. It is not anticipated that any new style casinos under the Gambling Act 2005 with greater numbers of gaming machines will be seeking licences before the next review of the Statement of Licensing Policy. When representations are made, conditions may be imposed that the provision of licensable activities will only be carried on when casino gambling takes place. This is to prevent casinos changing to alcohol led bars and dance premises if gaming activity is abandoned.
- 2.5.62 Account will be taken of the hours when the premises may be open for gambling. Granting of hours for the sale of alcohol earlier than the core hours, and other times when other premises do not generally sell alcohol, will be considered very carefully in relation to the effect on the licensing objectives.

Combined use premises

Introduction/definition

2.5.63 In this Licensing Policy, the term 'combined use premises' means premises which need a licence under the Licensing Act 2003 and operate in different ways where there is more than one use, and the uses are not dependent on or part of the other uses i.e. ancillary to them. These types of premises have the characteristics of different types of premises at different times and sometimes operate in different ways throughout the day and night and may vary their operation over the days of the week; for example operating as café /bar /nightclub, restaurant / nightclub, public house / restaurant, or bar / performance venue, or conference centre/private party function venue.

Combined use premises - Policy COMB1

(i) Where a premises proposes to operate as a 'combined use premises' applications will be considered on their merits with regard to each of the relevant policies e.g. Policies CD1, PS1, PN1, CH1, CIP1 and HRS1.

(ii) The Licensing Authority will take into account the current and proposed use of the premises when considering what weight is to be given to the relevant uses and policies. It will take into account what is the primary use of the premises, if any, and which licensable activities are proposed outside the core hours (see policy HRS1).

(iii) It will consider any premises which include any pub or bar use or provide facilities for fast food and drink or for music and dancing primarily under the policies specific to those uses e.g. PB1&PB2, FFP1 & FFP2, MD1 & MD2.

Reasons for Policy COMB1

2.5.64 In recent years, there has been a rapid development of new entertainment and leisure concepts including chameleon bars that change over the course of the day, superpubs, gastropubs and multi-attraction entertainment complexes. As a result, the conceptual boundaries between premises such as pubs, restaurants and other entertainment venues are increasingly becoming blurred and difficult to define. This policy has been developed to meet these changing circumstances.

Nudity, striptease and sex related entertainment

Introduction/definition

- 2.5.65 Following the amendment of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, (the 1982 Act), by the Policing and Crime Act 2009, the council has resolved that from 1st October 2011 premises providing “relevant entertainment” are required to be licensed as sex establishments under the 1982 Act as “sexual entertainment venues” (SEVs) unless they are exempt under the 1982 Act. Relevant entertainment is (a) any live performance; or (b) any live display of nudity; which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.5.66 The council has separate policies and standard conditions which apply to premises licensed as SEVs, whether or not those premises are also licensed under the Licensing Act 2003. Whilst most venues providing nudity, striptease and sex related entertainment will require to be licensed as a SEV, there are premises and circumstances in which a SEV licence will not be required. This section of the licensing policy will apply in those cases where premises are licensable under the Licensing Act 2003 but not required to be licensed as a sexual entertainment venue. Premises licensable under the Licensing Act 2003 and also required to be licensed as a sexual entertainment venue will be subject to other relevant policies in this licensing statement.
- 2.5.67 The Government’s application forms for Operating Schedules indicates that applicants should specify in their operating schedule anything which may give rise to concern in respect of children. The examples given include whether they propose to have entertainment involving nudity, striptease, or any other activity involving full or partial nudity, e.g. topless waitresses etc, or sex related entertainment such as the showing of films or other recordings with a restricted 18 category (R18). It notes that these examples are not an exclusive list. Revised Guidance at paragraphs 2.21 to 2.30 advises in respect of the

protection of children from moral, psychological and physical harm. The council would expect applicants to state if they intend to have "hostesses" to accompany patrons. Revised Guidance (paragraph 10.17) states that other than in the context of film classification, censorship of the content of regulated entertainment is not a proper function of licensing law, and cannot be properly related to the licensing objectives. The council as the Licensing Authority does not seek to censor the content of regulated entertainment. As Revised Guidance points out (paragraph 10.17), indecency is covered by other legislation. The council in its role as the Licensing Authority seeks to limit the number and location of premises offering sex related entertainment and seeks to regulate the way in which this type of entertainment is conducted in order to prevent crime and disorder, prevent nuisance and to protect children from harm.

Nudity, striptease and sex related entertainment - Policy NS1

(i) Applications involving nudity or striptease or sex related entertainment will only be granted in exceptional circumstances and if the proposal meets the relevant criteria specified in Policies CD1, PS1, PN1, CH1 and HRS1.

(ii) Applications will be subject to appropriate conditions which promote the licensing objectives.

(iii) Applications will not be granted in proximity to:

(a) residential accommodation

(b) schools

(c) places of worship

(d) community facilities or public buildings.

(iv) The Licensing Authority will have regard to the cumulative effect of the number of such premises, and sexual entertainment venues, in proximity to each other and in the vicinity.

Reasons for Policy NS1

2.5.68 Premises providing sex related entertainment are likely to constitute a public nuisance if they are

- in or near residential areas
- in other areas which are not already associated with entertainment
- if they are close to schools, places of worship and community facilities.

Their clientele sometimes arrive and depart in large groups. Premises offering sex related entertainment have a cumulative effect particularly if they are clustered together. This is irrespective of any visual displays that indicate the type of entertainment on offer, which if judged to be indecent can be regulated by Indecent Displays (Control) Act 1981. Many of these premises now required to be licensed as sexual entertainment venues were not previously classified as sex establishments by virtue of them providing regulated entertainment or late night refreshment authorised under the Licensing Act 2003, which specifically exempted them from the legal requirement for a sex establishment licence under the Local Government (Miscellaneous Provisions) Act 1982. From 1st October 2011, following

amendment of this Act by the Policing and Crime Act 2009, the Council has resolved to separately licence sexual entertainment venues.

The council has consulted Visit London, the official visitor organisation for London, on their views on expansion in the number of premises offering sex related entertainment. It has advised that if the balance and mix of uses in areas such as Soho, were to change and become more dominated by sex related entertainment this could deter visitors and have a negative impact overall.

- 2.5.69 There are specific concerns over some aspects of crime and disorder and public nuisance that have associated with some poorly run premises offering this type of entertainment. These arise from lewd acts and disorder on the premises and prostitution, touting and “clipping” around and associated with the premises.
- 2.5.70 This policy, in conjunction with policies in respect of SEVs, has therefore been designed to restrict further growth of this form of entertainment, and to ensure that where it is permitted it promotes the licensing objectives and has sufficient conditions attached to ensure the premises are managed satisfactorily. The council as the Licensing Authority, and the police, are concerned that nudity or partial nudity does not become incidental to the operation of licensed premises such as pubs and bars on either a permanent or occasional basis. The Licensing Authority would expect that any proposals for such entertainment or operation as a “hostess” venue at any time should be identified in the operating schedule. In general the Licensing Authority will not consider that nudity is part of the normal operation of a pub, bar or restaurant and will require that the premises where such entertainment or operation is proposed benefits from an appropriate planning permission or other lawful planning use. The proper regulation of sex related entertainment requires a range of conditions to be imposed and supervised by the Licensing Authority and the specialist units of the police in order to promote the licensing objectives. The specialist resources to do this are limited and such necessary regulation cannot be operated if sex related entertainment is provided on an incidental or casual basis or in a great number of premises.

Conditions

2.5.71 If nudity or partial nudity forms part of the entertainment (e.g. striptease, pole or lap dancing), or is part of the operation of the premises (e.g. topless or fetish bars and clubs), the Licensing Authority will attach conditions to any such premises licence it may grant to promote the licensing objectives. These will include conditions relating to:

- the exclusion of persons under 18 at all times from premises where these activities take place
- the prevention of views into the premises
- prohibiting exterior advertising of the sex related entertainment at the premises
- the leafleting or touting for business.

Conditions will be imposed requiring that all service is to seated customers; prohibiting the participation of customers in performances and maintaining a minimum distance of one metre between performers and customers, and between performers during performance. This is to ensure that it can be easily observed that no touching, or other acts that would constitute disorder, take place. There will also be conditions on the installation and operation of CCTV and retaining recordings of performances and on the employment of supervisors. Licences for premises with “hostesses” will be subject to a range of conditions to ensure that they operate in a way that ensures that all charges are transparent to customers, that the identity of the hostesses are recorded, and that conduct of the “hostesses” with regard to patrons is regulated. The Licensing Authority may attach other conditions as appropriate.

2.5.72 To prevent the proliferation of such premises, applications for premises which provide music, dancing and late night refreshment, that do not specify that there will not be any adult entertainment, services or other entertainment which may give rise to concern in respect of children in the relevant part of the application (currently Box N on page 13 of the application form), will be asked

to accept a "no nudity, no hostesses" condition on any licence granted. The removal of conditions which restrict adult entertainment or nudity in premises is likely to impact on the licensing objectives, and the council considers therefore that in general it is not appropriate to remove such conditions from licences under the "minor variations" procedure of the Licensing Act 2003.

2.6. Temporary event notices

- 2.6.1 The Licensing Act 2003 allows small scale events (for less than 500 people at a time and lasting no longer than 168 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Licensing Authority, the Environmental Health service and the Metropolitan Police in the form of a Temporary Event Notice (TEN) (Revised guidance, paragraphs 7.2 to 7.5). There are two types of TEN, a standard TEN and a late TEN, which are subject to different processes. A standard TEN must be given no later than 10 working days before the proposed event; a late TEN may be given not before 9 but not later than 5 working days before the event.
- 2.6.2 Under the Licensing Act 2003, the number of temporary events notices that a personal licence holder can give is limited to 50 a year. People who are not personal licence holders can only give notice of 5 events in any one year. From 1st January 2016 the number of times premises can be used in one year is limited to 15 over a maximum of 21 days. The maximum duration of any single event authorised by a TEN cannot exceed 168 hours (7 days) and the minimum period between events at the same premises by the same premises user is 24 hours.
- 2.6.3 Although the statutory notice for temporary events notices to the Licensing Authority and the police is 10 working days, the council would prefer that organisers give a minimum one month' s notice of a temporary event. One month' s notice is desirable to check that the limitations set down in the Act are being observed, and to hold a hearing if there are objections from the police or environmental health on grounds relating to any of the licensing objectives, or if they seek the notice to be modified (Revised Guidance, paragraph 7.11). The police and environmental health must make their objection within 3 working days. Breach of notices which are crimes, even those not necessarily prosecuted by the Police, but which would be committed as a consequence of the event taking place, are relevant grounds on which the Police can issue a counter notice. It will facilitate the police' s consideration if

a risk assessment form is completed, and may prevent an objection and thus a delay in the authorisation of a Temporary Event Notice. A delay would occur if a risk assessment form is not completed for any event that increases licensable hours, involves music and dancing, has a capacity for more than fifty people, increases in the capacity of a venue, or changes in the everyday use of the venue. The Police' s risk assessment form is available on the web at www.met.police.uk/events/forms/form_696.pdf

The completion of the police' s debriefing form after the event can assist in the planning and authorisation of future events.

www.met.police.uk/events/forms/form_696a.doc

- 2.6.4 Organisers may choose to notify the Licensing Authority and the Police of multiple events at the same time (Revised Guidance, paragraph 7.22). Organisers of outdoor events are strongly advised to contact the council' s Special Events Team.
- 2.6.5 The council' s Premises Management team may visit a permitted temporary event held under the terms of the Temporary Event Notice and may monitor the event to ensure it is in accordance with it and with other associated legislation (e.g. pollution, health and safety etc) if necessary.
- 2.6.6 The Fire Authority will receive notice of these events from the council and will give fire safety advice on request. They may also carry out visits to events, and take any action necessary under fire safety legislation that they enforce.

CONDITIONS, MANAGEMENT AND ENFORCEMENT

3

3.1. Conditions on licences

- 3.1.1 The Licensing Authority will not impose any conditions, other than those consistent with the operating schedule accompanying the application and any mandatory conditions required under the Act unless its discretion has been engaged following the making of relevant representations and it is satisfied as a result of a hearing that it is appropriate to impose conditions to promote one or more of the licensing objectives. (Revised Guidance paragraph 10.8). It will also consider the issues of proportionality highlighted in Revised Guidance at paragraph 10.10. It will only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations. Conditions will be focused on matters that are within the control of individual licensees and will centre on the premises and the vicinity of those premises. The primary focus will be on the direct impact of the licensed premises' activities on members of the public living, working or engaged in normal activity in the area concerned (Revised Guidance, paragraph 1.16).
- 3.1.2 When it is considered that the effect on the licensing objectives of the grant of a licence or a variation to a licence will be dependent on the licensable activities not being available to the general public, then conditions should ensure that events are genuinely private and that corporate events are genuinely for members of bona fide organisations. It should recognise that different corporate and private events can have a range of different impacts on the licensing objectives. The policy also recognises that the impact that promoter led events can have on the licensing objectives can vary considerably dependent on the promoter, but in all cases conditions should only be applied where appropriate to promote the licensing objectives and

only be applied to premises hosting private or corporate events when they are proportionate to promote the licensing objectives. Appropriate model conditions have been drafted to assist applicants and responsible authorities.

- 3.1.3 Where existing legislation already places certain statutory responsibilities on an employer or operator of premises as the Licensing Authority will avoid attaching conditions which duplicate other statutory regimes as far as possible. (Revised Guidance paragraph 13.15). However, these general duties will not always adequately cover specific issues that arise on the premises in connection with certain entertainment, and in these cases additional measures in the form of conditions will be required to promote the licensing objectives.
- 3.1.4 Conditions include any limitations or restrictions attached to a licence or certificate, and are essentially the steps the holder of the premises licence or the club premises certificate will be required to take when licensable activities are taking place at the premises in question.
- 3.1.5 The Licensing Authority will not impose conditions which replicate matters that constitute the offences set out in Part 7 of the Licensing Act e.g. unauthorised licensable activities; allowing disorderly conduct; sale of alcohol to any person who is drunk or is underage. (Revised Guidance paragraph 1.16). Nevertheless, the Licensing Authority will take into account any breaches of conditions and offences under the Licensing Act when considering the imposition of conditions in reviews and the variation of licences.
- 3.1.6 When granting variations to licences, the Licensing Authority will apply conditions to replicate the effect of previous undertakings where relevant to the premises and the promotion of the licensing objectives.
- 3.1.7 The council will utilise “works conditions” to the effect that the premises will not be operated until specified works are completed or measures put in place to the satisfaction of the relevant responsible authorities. This is an expedient way of resolving technical matters which cannot be readily determined at hearings.

- 3.1.8 The council may publish and from time to time review a set of “model conditions” which may be used either by the applicant when completing an Operating Schedule or by the council when considering granting an application, to identify conditions which may be appropriate in the individual circumstances of an application. It is important that they should not be applied universally and treated as standard conditions irrespective of circumstances.

3.2. Management and enforcement approach

- 3.2.1. It is essential that licensed premises operate in accordance with the Licensing Act and to ensure the promotion of the licensing objectives. Part of the Licensing Authority’s role is to monitor premises and take appropriate action to ensure that the licensing objectives are promoted.
- 3.2.2. In accordance with Revised Guidance, paragraphs 13.16 and 13.17, the Licensing Authority will work alongside the Metropolitan Police in promoting the licensing objectives. Protocols will be agreed as appropriate between the police and the council on the responsibilities and procedures for joint working and enforcement.
- 3.2.3. The council in its role as the Licensing Authority will also work in partnership with the Fire Authority to promote the licensing objectives. Protocols as appropriate will be agreed between the London Fire & Emergency Planning Authority (LFEPA) and the council on responsibilities and procedures for joint working and enforcement.
- 3.2.4. The council has an established Corporate Enforcement Policy based around consistency, transparency and proportionality which can be viewed on the council’s website at <http://www.westminster.gov.uk>
- The council has also adopted the Enforcement Concordat issued by the Cabinet Office which can also be viewed on the website.
- 3.2.5. Inspection and enforcement under the Licensing Act 2003 will be based on the principles of risk assessment, having a graduated response and targeting

problem premises. Inspections will not be undertaken routinely. Enforcement of the legislation will be objective and transparent.

- 3.2.6. An intelligence led approach will be adopted and information regarding incidents of violent crime, disorder and nuisance in and around licensed premises will be collated to provide a risk assessment basis for inspection and, where appropriate, surveillance.
- 3.2.7. The Licensing Authority will need to be satisfied that premises are being run in accordance with the Licensing Act and any licensing conditions, which may be attached to the premises licence. The frequency of inspections will need to be determined on risk-based criteria, with high-risk operations receiving more attention than premises carrying low public safety/nuisance risks.
- 3.2.8. Premises found to be fully compliant will attract a lower risk rating and those where breaches are detected will attract a higher risk rating.
- 3.2.9. The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the council's Corporate Enforcement Policy.
- 3.2.10. Any complaints received by the council about unlicensed activity or the way licensed premises may be operating will be dealt with in accordance with the council's Corporate Enforcement Policy and may result in an adjustment to the risk rating, prompting more frequent visits. We will work with businesses in an attempt to resolve issues that are of concern.
- 3.2.11. Increasingly, applications have been made for premises licences at premises where a licence is already in force. Typically the applicant is the landlord of the premises where the licence holder of the licence already operating is their tenant. The landlord in many cases is seeking what they term a "shadow licence" on the same or similar terms to the licence already existing.
- 3.2.12. The Act permits more than one licence to be in effect at any one time at the same premises and it has been established in law that the landlord may apply for a second or subsequent licence.

- 3.2.13. The council remains concerned however that the holding of additional licences has the potential to undermine the sanctions available to it in response to a review application under the Act. This would be the case if action was taken in respect of one of the licences in effect at the premises, but the premises continued to operate under the authority of a second licence which had not been affected by the review proceedings.
- 3.2.14. The council recognises that landlords have powers over their tenants outside of the licensing regime and would expect responsible landlords to exert that control to promote the licensing objectives. Where the landlord is also a licence holder of a premises licence in effect at the premises the council considers that the landlord has further responsibilities in respect of the operation of the premises to promote the licensing objectives..
- 3.2.15. In order to promote the licensing objectives the council will take a holistic view of the licensing circumstances at the premises. When the licensing authority makes an application to review a premises licence to promote the licensing objectives at a premises, it will also consider whether it is appropriate to review all the licences in effect at the premises in order to promote the licensing objectives. Where the applicant for the review is not the licensing authority it will encourage the applicant to also consider whether it is appropriate to review all the licences in effect at the premises, and will consider bringing a review of any other licence in effect at those premises if it considers it appropriate to promote the licensing objectives.
- 3.2.16. To support the council' s approach to multiple licences for the same premises it is the licensing authority 's policy that all licences take effect when granted and continue to have effect in accordance with section 26 of the 2003 Act, and that the imposition of a condition which purports to suspend the effect of a licence would not promote the licensing objectives.

GLOSSARY

4

Adult entertainment

It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants and responsible authorities need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless staff, striptease, lap dancing, table dancing or pole dancing, performances involving significant violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

Children

There are several definitions of children under the Licensing Act 2003. A child is defined for the purposes of section 145 of the Act as an individual aged under 16. For the purposes of the Act, children are considered to be unaccompanied if they are not in the company of an individual aged 18 or over.⁴ The Act makes it an offence to allow unaccompanied children on premises used exclusively or primarily for the supply of alcohol for consumption on the premises. It is also an offence to allow unaccompanied children under 16 at other premises supplying alcohol for consumption on premises with a premises licence, club premises certificate or temporary event notice between 00:00 and 05:00. Section 146 of the Licensing Act 2003 on sale of alcohol to children makes it clear that the sale of alcohol to any individual

⁴ Section 145 (2) of the Licensing Act 2003 Chapter 17

under 18 is an offence. In Section 20, for the purposes of the exhibition of film, children means persons under 18.

Clipping

Obtaining money through deception by the apparent offer of sexual services or entertainment. This may involve the simple deception of receiving money and sending victims to addresses where no such offer is available, the supply of non-alcoholic drinks at inflated prices and the charging of fees for hostess services when not requested. In some instances, it is associated with luring victims to places where they are robbed.

Combined use premises

Premises that operate as multi-use premises where there is more than one use and the uses are not dependent on, or part of, the other uses, i.e. ancillary to them. Examples include: café/bar/nightclub; restaurant/nightclub; public house/restaurant; bar/performance venue, etc. These types of premises sometimes operate in different ways throughout the day and night and may vary their operation over the days of the week.

Cumulative Impact Areas

Three such areas are designated in this policy where special policies apply: the West End Cumulative Impact Area; the Edgware Road Cumulative Impact Area; and the Queensway/Bayswater Cumulative Impact Area. See Appendices 14 and 15.

Fast food premises

Fast food premises are defined for the purposes of this policy as premises that provide late night refreshment either by way of take away for immediate consumption, or fast food on a counter or self seating basis.

Karaoke

Singing by members of the public to musical backing or accompaniment. Usually involving pre-recorded music and numbers of members of the public singing in series.

Late night refreshment premises

Premises providing late night refreshment at any time between the hours of 23:00 and 05:00. This consists of the supply of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises. (Schedule 2, Licensing Act 2003).

Licensable activities

Those activities under the Licensing Act 2003 which require a licence from the Licensing Authority (council) include the following:

- (a) the sale by retail of alcohol
 - (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club
 - (c) the provision of regulated entertainment
 - (d) the provision of late night refreshment.
-

Licensing authority

In the Licensing Act 2003 (clause 3) licensing authorities in London are defined as the Councils of London Boroughs. For the purposes of this statement this is the City of Westminster.

On and Off sales of alcohol

For the purposes of this policy and conditions attached to a licence, an on sale of alcohol is a sale of alcohol intended for consumption on the licensed premises. An off sale occurs where the alcohol supplied is intended for consumption off the licensed premises. This may include the consumption of alcohol on an area of the highway where that area has been appropriately authorised for the use of tables and chairs by the highway and/or planning authorities.

Other Persons

There is no restriction under the Act on who may make a representation in respect of an application, or apply to review a licence. Other Persons are anyone other than responsible authorities.

Personal licences

This is a licence which:

- (a) is granted by a Licensing Authority to an individual in the local authority area where they usually reside and
- (b) authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with the premises licence (Part 6, section 111(1), Licensing Act 2003).

The Licensing Act 2003 specifies the tests that may be applied when determining an application for a Personal Licence (Part 6, Section 120). Any individual is only permitted to hold one Personal Licence (Part 6, Section 118 Licensing Act 2003).

Private events

It may be important to determine whether an event is private either because it is relevant to determining whether an entertainment activity is regulated

entertainment and therefore licensable under the Act, or to understand the extent of a condition which restricts access to a premises and which purports to operate to the exclusion of the general public. Events can only be considered bona fide private if persons attending the event have been personally invited or belong to a distinct class of persons so invited and who were directly connected to the organiser of the event. This would include persons working together, or friends and relatives of an individual holding a celebratory event, but would not include persons who registered themselves on a "guest list" or took up some form of membership mainly for the purpose of gaining admission to the event.

Public entertainment licences

In this document these are taken to be licences issued under:

- The London Government Act 1963
 - The Local Government Miscellaneous Provisions Act 1982
 - The Cinemas Act 1985
 - The Theatres Act 1968
-

Qualifying club

These clubs are organisations where members have joined together for particular social, sporting or political purposes and have then combined to buy alcohol in bulk as members of the organisation for supply to the club. There are technically no sales of alcohol by retail at such premises except to guests when guests make a purchase. Such clubs have traditionally not been "licensed" ; they have registered with the magistrates' courts having established that they qualify to be treated exceptionally. The 2003 Act preserves this special treatment and requires the club to "qualify" to be outside the normal premises licence arrangements. The new authority for the supply of alcohol and provision of other licensable activities on qualifying club premises is a club premises certificate and this is issued by the Licensing

Authority. A qualifying club will normally be permitted under the terms of a club premises certificate to sell and supply alcohol to its members and their guests only. In order to be a qualifying club, instant membership is not permitted and members must normally wait at least two days between their application and their admission to the club. Any qualifying club may choose to obtain a premises licence if it decides that it wishes to offer its facilities commercially for use by the general public, including the sale of alcohol to them. Such qualifying clubs should not be confused with proprietary clubs, which are clubs run commercially by individuals, partnerships or businesses for the purposes of profit and which require a premises licence and are not eligible to be qualifying clubs.

Regulated entertainment

Schedule 1 of the Licensing Act 2003 sets out what activities are regarded as the provision of regulated entertainment and when they are licensed and those activities which are not and therefore exempted from the regulated entertainment regime. The descriptions of entertainment activities licensable under the Act are:

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment (indoors and outdoors)
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.

To be licensable, one or more of these activities need to be provided for the purpose of entertaining an audience; has to be held on premises made available for enabling that activity; and must either (i) take place in the presence of a public audience, or (ii) where the activity takes place in private, be the subject of a charge made with a view to profit.

Since the 2003 Act came into force further exemptions have been introduced through the deregulation of entertainment in certain circumstances and where different criteria apply. These are described in Chapter 15 of Revised Guidance.

Relevant representation

A representation on the likely effect of the grant of an application or the operation of an existing licence on the licensing objectives.

Responsible authorities

These include:

- the Chief Officer of Police
- the Fire Authority
- the enforcing authority for health and safety at work
- the Planning Authority
- the local authority responsible for minimising or preventing the risk of pollution or harm to human health
- the recognised body responsible for the protection of children from harm
- the local authority's Director of Public Health
- the Trading Standards Authority

The council has recognised the Area Child Protection Committee to be competent for the protection of children from harm.

See under “vessels” for the additional responsible authorities for vessels.

Restaurant

For the purposes of this policy a restaurant is defined as premises (i) in which customers are shown to their table, (ii) 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, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where intoxicating liquor shall not be sold, supplied, or consumed on the premises otherwise than to persons who are bona fide taking substantial table meals and provided always that the consumption of intoxicating liquor by such persons is ancillary to taking such meals.

Safer clubbing

‘Safer Clubbing’ is guidance published by the Home Office (Drugs Prevention Advisory Service and the London Drug Policy Forum) January 2002. The key issues identified are:

- Prevention of overcrowding
- Air conditioning and ventilation
- Availability of drinking water
- Further measures to combat overheating
- Overall safety.

Security Industry Authority (SIA)

The Security Industry Authority was set up by the Private Security Industry Act 2001. The key role for the SIA involves the managing and issuing of licences

for people working in particular areas of the private security business. Another crucial area for the future is developing an approved contractor scheme. More details are available at

www.the-sia.org.uk

Sex establishments

These are defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Licences are required for sex shops, and for sex cinemas, that are not providing regulated entertainment or late night refreshment authorised under the Licensing Act 2003, and for sexual entertainment venues.

Street drinking controlled zone

Under section 13(2) of the Criminal Justice and Police Act 2001 in designated areas, the police have the power to require a person not to drink alcohol there and to surrender any alcohol or containers, including sealed containers. It is only an offence to fail to comply with a Police officer 's requirements.

Variation

A variation is a material change to a premises licence and would include an increase in the capacity of the premises, a change in the hours of operation of the premises, a change to the way the premises is to operate in regard to the Operating Schedule or a request to vary an existing condition attached to the premises licence. Policies relating to variations do not apply to applications to change the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor. Where a licence holder wishes to make small variations to their licence which would not adversely impact on the licensing objectives a simplified "minor variation" process will apply. See Revised Guidance paragraph 8.42 to 8.65.

Vessels

A vessel (which includes a ship or a boat or a barge) that is permanently moored or berthed is regarded as a “premises” situated at that place. The Act also applies in relation to a vessel which is not permanently moored or berthed as if it were premises situated at the place where it is usually moored or berthed. The relevant Licensing Authority is the Licensing Authority for the area in which it is usually moored or berthed. An activity is not a licensable activity if it takes place aboard a vessel engaged on an international voyage. The Secretary of State for Transport represented by the Maritime and Coastguard Agency is the lead responsible authority for vessels with regard to public safety, including fire safety, and issues affecting passenger vessels. Merchant Shipping legislation does not, however, apply to permanently moored vessels, for example, restaurant ships moored on the Thames Embankment. In relation to a vessel, but no other premises, responsible authorities also include the navigation authorities that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities.

APPENDICES

5

Appendix 1 - Consultation

Consultation was carried out with key stakeholders and interested parties on this policy for a formal period of eight weeks, from 19 March to 15 May 2015, satisfying the requirements of the Licensing Act 2003. Consultation was on the basis of a review document outlining issues and proposals for change. Those consulted included the following:

- the Chief Officer of Police for the area
- the Fire Authority for the area
- other relevant and interested bodies/authorities
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of businesses in its area
- persons/bodies representative of residents in its area.

These included the Westminster Amenity Society Forum, and members of the Westminster Entertainment Forum. The consultation was also publicised through Licensing News to individuals and organisations, and their representatives, who have registered an on-going interest in licensed premises in Westminster, and available to members of the public on the council website.

27 responses to the Review document were received:

- 3 from BIDs or trade associations
- 3 from individual operators
- 3 from local landlords
- 9 from residents' associations

- 5 from individual residents
- 1 from a responsible authority
- 3 from other organisations

Appendix 2. - Applications

1. The council' s Licensing Committee, through its Sub Committees, and the powers delegated to officers as detailed in Appendix 3, is responsible for the determination of applications relating to the following:
 - Premises licences
 - Provisional statements
 - Club premises certificates
 - Temporary event notices
 - Personal licences for the sale or supply of alcohol.

Those activities under the Licensing Act 2003 which require a licence or other authorisation include the following:

- the sale of alcohol by retail
- the supply of alcohol to a member of a club
- the provision of regulated entertainment
- the provision of late night refreshment.

See the Glossary for fuller definitions of licensable activities.

Variation of a licence

2. An application for a variation must be advertised in accordance with regulations and the council will expect applications to be advertised to residents and businesses in the vicinity. Applications must be notified to the "responsible authorities" . These must be accompanied by an "Operating Schedule" setting out what licensable activities the premises will be used for and any other hours when it will be open to customers or members. The Operating Schedule should be prepared after an applicant' s assessment of

the effect of the grant of the licence on the licensing objectives. Applicants are advised to consult the “responsible authorities” when they do this.

3. The council is itself the responsible authority for the prevention of pollution of the environment including noise, and for health and safety (in most cases) and trading standards and is the planning authority. Acting in any of these capacities, it may make representations to the Licensing Committee acting as the Licensing Authority. These can be expected to be made with reference to the Statement of Licensing Policy. These representations may reflect views of the council; acting as the Principal Litter Authority or as the Waste Collection Authority or as the Waste Disposal Authority.
4. Unless “relevant representations” are made by the responsible authorities or “other persons” (including residents and businesses in the vicinity) that are related to the licensing objectives, the application must be granted. The licence will be subject to those conditions that give effect to the Operating Schedule. If the licence includes the sale of alcohol, it must specify the designated premises supervisor and the mandatory conditions on the sale of alcohol. There are also mandatory conditions for film exhibition and on door supervision.
5. If the relevant representations are withdrawn, possibly after mediation and revision of the Operating Schedule, the Licensing Authority must grant the application. If the representations stand but all parties agree that there is no need to hold a hearing, the Licensing Authority can decide the application without holding a hearing but this function cannot be delegated from the Licensing Sub Committee.

Appendix 3. - Committees and delegation decision making chart

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

Application for a minor variation to a licence / certificate		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for Interim Authorities	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
MATTER TO BE DEALT WITH LICENSING COMMITTEE OR SUB COMMITTEE OFFICERS		
Decision on whether a ground for review is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the lead authority		All cases
Determination of a police representation to a temporary event notice	All cases	

Appendix 4. Reviews of Premises Licences

Working in partnership

1. The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, interested parties, the police, fire authority and the council. The council will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement (Revised Guidance, paragraph 11.10).

Purpose of reviews

2. The review process is integral to the operation of the Licensing Act 2003. The Government's intention is for a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representations will the licensing authority have the discretion not to grant licences. If problems arise in connection with a premises licence, it is for the responsible authorities and other persons to apply for a review of the licence. In appropriate circumstances, the Licensing Authority itself may review a licence. Proceedings under the Licensing Act 2003 for reviewing a premises licence are provided as a key protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring (Revised Guidance paragraph 11.1).

Initiating reviews

3. At any stage, following the grant of a premises licence, any of the responsible authorities or any other person, such as a resident living in the vicinity of the premises, may apply to the council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The police can take action to close premises for up to 24 hours on grounds of disorder and noise nuisance under the terms of the Licensing Act 2003, and

the powers for the police to apply for an expedited review of a premises licence where the premises selling alcohol are associated with serious crime and disorder. There are powers under Sections 40 and 41 of the Anti Social Behaviour Act 2003 for Environment Health officers to close premises for 24 hours on grounds that noise from licensed premises is causing a public nuisance. The licensing authority can also initiate its own reviews of premises licences, and officers of the council who are specified as responsible authorities under the Act, or elected members of the council, may request reviews (Revised Guidance, paragraph 11.5).

4. In every review case an evidential basis for the allegations made will need to be submitted to the council as the Licensing Authority.
5. When a request for a review is initiated from a person other than a responsible authority, the council is required to first consider whether the representation made is relevant to the licensing objectives, or is vexatious or frivolous. (Revised Guidance paragraph 11.11). In addition, the Secretary of State recommends that more than one review on similar grounds originating from interested parties should not be permitted within a period of 12 months except in exceptional and compelling circumstances or where it arises following a closure order (Revised Guidance, paragraph 11.13).
6. Where the council receives a request for a review in accordance with the closure procedures described in Part 8 of the Act, the council will arrange a hearing in accordance with the regulations set out by the Secretary of State (Revised Guidance, paragraph 11.15).

Powers following determination of review

7. The council, in determining a review, may exercise the range of powers given to them to promote the licensing objectives.
8. Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps to promote the licensing objectives:

- modify the conditions of the premises licence (which includes adding a new condition or any alteration or omission of an existing condition), for example by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

(Revised Guidance, paragraphs 11.19)

Other steps that can be taken by the council include:

- taking no action
- issuing an informal warning
- recommending improvements within a particular time
- monitoring by regular inspection and invite to seek a further review if problems persist.

Revised Guidance paragraph 11.18 states “However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement - either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.”

9. Offences under the Licensing Act 2003 include the serving of alcohol to unaccompanied persons under 18. The consumption of alcohol by minors impacts on the health, educational attainment, employment prospects and propensity for crime of young people. The admitting or serving of persons who are intoxicated is also an offence under the Licensing Act 2003; the council will treat representations that these offences have occurred seriously

when they arise in connection with the granting or review of a premises licence. It will also have regard to other criminal activities which may take place in some types of licensed premises, and which will be treated particularly seriously:

- sale or distribution of drugs and the laundering of the proceeds of drug crime
- sale or distribution of stolen or counterfeit goods or weapons
- sale of smuggled tobacco and alcohol
- prostitution, pimping or procuring
- use as a base for criminal activity, particularly gangs
- organisation of racist activity
- unlawful gaming and gambling
- knowingly employing a person who is unlawfully in the UK, or cannot lawfully be employed
- grooming of children by organised groups of paedophiles

(Based upon Revised Guidance, paragraph 11.27)

10. Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that the revocation of the licence - even in the first instance - will be seriously considered (Revised Guidance, paragraph 11.28). However, revocation also remains an option if other licensing objectives are being undermined.

Appendix 5 Westminster Strategies

The council has prepared a number of strategies that contain visions, aims and objectives to promote, improve, and protect Westminster's status as a world class city centre. The council has had regard to the local strategies, which have been developed for the city's businesses, residents, workers and visitors. These are outlined below. The council intends to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies by ensuring the Statement of Licensing Policy is consistent with the aims and objectives of these strategies and will continue to participate in partnerships and committees as appropriate (Revised Guidance, paragraph 13.56).

City for All (2015 – 2018)

City for All is a 3 year plan for the council and the whole of the city. It invites each and every one of us to play a part in creating a City for All – a city of Aspiration, Choice, and Heritage. It will enable all of our communities to share in the economic prosperity of our city, will create opportunities for everyone to make responsible choices for themselves, their families and their neighbourhoods, and will protect and enhance Westminster's unique heritage so that every neighbourhood remains a great place to live, work and visit both now and in the future.

Westminster City Plan and Unitary Development Plan

The Westminster City Plan (2013) and Unitary Development Plan (adopted January 2007) contain planning policies which control the location, size and activities of entertainment uses to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the city. These policies will be supported by Supplementary Planning Guidance, currently being developed by the council.

West End Partnership Vision

The West End Partnership was established in 2013 to provide stronger leadership, greater coordination and a more influential voice for the West End. This Partnership draws upon senior public service and private sector leaders including those from the City of Westminster and London Borough of Camden, academic experts and residents' representatives working together for the common good of the area.

Draft Economic Development Strategy

Framework (2015)

The draft framework sets out the approach the council is taking to economic development in the city. It sets out the principles for prioritising projects and identifies strategic themes through which the council vision will be delivered.

Safer Westminster Partnership Plan (2014-2017)

The Safer Westminster Partnership is a statutory partnership established as a consequence of the Crime and Disorder Act 1998. The Partnership, currently led by the Police, has a duty to conduct an audit of crime, disorder, anti-social behaviour and drug misuse in Westminster, to consult widely on the findings and set strategies to tackle the issues identified.

There is currently a three year strategy in place (The Crime and Disorder Reduction Strategy) under which the partnership sets more detailed annual plans. Since the last three year Crime and Disorder Reduction Strategy was agreed there have been significant reductions in street crime, burglary and motor vehicle crime.

Joint Health and Wellbeing Strategy (2013-2016)

The Joint Health and Wellbeing Strategy sets out the priorities and actions which the Health and Wellbeing Board are planning to carry out in the period 2013 to 2016 to improve the health and wellbeing of people living in, working in and visiting Westminster.

Alcohol Strategy

Reducing alcohol related harm by encouraging responsible drinking, protecting individuals and communities from alcohol related criminal behaviour, and improving treatment and support for those affected by problems of alcohol abuse.

Other Strategies

Equality and Diversity Strategy and Action Plan

(including the Primary Care Trust Race, Diversity and Gender Equality Schemes)

Local Implementation Plan (2011)

Programme for a Healthier Westminster (2006)

Draft Municipal Waste Management Strategy for the City of Westminster (2016 to 2031)

Appendix 6. - Other relevant legislation

Planning legislation and building regulations

The planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Paragraph 13.57 of Revised Guidance makes it clear that licensing committees are not bound by decisions of the planning committee and vice versa. The grant or variation of a licence by the licensing committee which involves a material alteration to a building would not relieve the applicant of the need to apply for and obtain any relevant planning permission or building regulation approval where appropriate before operating under the terms of the licence or Temporary Event Notice (Revised Guidance, paragraphs 13.57 and 13.58). In Westminster, which is a densely built up area with a variety of uses in close proximity, the council expects all applications for new licences and variations to demonstrate that the proposed activities are lawful planning uses.

Health and Safety at Work Act 1974 and associated legislation

The council is the administrative and enforcement authority for this legislation for almost all premises in the city. Where responsibility for health and safety administration is designated to another body, such as the Health and Safety Executive, the council will work in partnership with that body to promote health and safety improvements.

Human Rights Act 1998

The council has a duty under the European Convention on Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operate his business without undue interference

(Article 1 of the First Protocol). These policies are intended to reflect the balance to be struck between these interests where they conflict.

Equality Act 2010

Westminster recognises that the Equalities Act places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons who share a protected characteristic and those who do not share it. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race (including ethnic or national origins, colour or nationality), religion and belief, sex, and sexual orientation.

Crime and Disorder Act 1998 Section 17

This Act requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. It states,

“Without prejudice to any other obligation imposed upon it, it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

Therefore, this Act requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. This reflects the reality that there are crime and/or disorder implications in decisions made across the full range of local authority services. The consideration of the specific licensing objective of the prevention of crime and disorder fulfils the requirement under this Act.

The Anti-social Behaviour, Crime and Policing Act 2014

The Act introduced a wide range of powers available to the Police and local authorities to tackle anti-social behaviour, including incidents of crime, nuisance and disorder, which make people's lives a misery. This Act covers noisy neighbours, vandalism, litter and public drunkenness. It has introduced public spaces protection orders which allows a local authority to designate areas within their Borough where certain anti-social behaviour will be prohibited, including drinking. It also gives the Police or local councils the ability to close premises where nuisance and disorder is taking place. They also allow the Police and local authorities to issue Community Protection Notices (CPN's) for a wide range of anti-social behaviour.

Environmental Protection Act 1990

This covers a wide range of types of pollution including noise pollution.

Fire safety legislation

The London Fire and Emergency Planning Authority (LFEPA) enforce fire safety legislation. This currently includes the Fire Precautions (Workplace) Regulations, the Fire Precautions Act, and the Regulatory Reform (Fire Safety) Order 2005.

Merchant shipping legislation

This applies to vessels that undertake voyages but not to those permanently moored.

Sex Establishment legislation

The Local Government (Miscellaneous Provisions) Act 1982, as amended by the Greater London Council (General Powers) Act 1986, and the Policing and Crime Act 2009.

City of Westminster Act 1999

The City of Westminster Act 1999 is a local Act which regulates street trading in Westminster. Consent for the use of tables and chairs on the highway associated with licensed premises may need authorisation under the 1999 Act. A temporary street trading licence issued under the 1999 Act will define the permitted area to be used, the hours for which the consent is granted, and any limitation on the numbers of tables and chairs or restrictions on other associated equipment.

Appendix 7 – Metropolitan Police crime prevention and effective management checklist

Links to health and safety policy and legislation:

1. Is there a written Health and Safety Policy for the premises?
2. Is there a written Risk Assessment?
3. When was it carried out?

Incident logs – Crime & Disorder incidents to be recorded

Mapping scheme, mark location incidents within premises

1. Is there an incident log in operation?
2. Is the incident log available for inspection?
3. Within your premises, where are your crime hotspots?

Staff training – training to resolve identified risks

1. Are all staff trained to recognise aggressive or suspicious behaviour?
2. Are all staff requested to approach customers about unattended property/clips?
3. On busy nights, are staff employed to warn customers about leaving property unattended?
4. Do door Supervisors attend staff training days?
5. Is there a record of staff training?

6. Do staff sign a training attendance record?
7. Who is responsible for company policy on staff training?

Staffing levels

1. What are your minimum and maximum staffing levels?
2. How are they decided?

Design of premises – implement recommendations of CPO

1. How many points of entry are there?
2. Are the entry points monitored?
3. Is there a Police response alarm?
4. Do staff carry panic buttons?
5. Is there a panic button in cash office?
6. How is capacity monitored?
7. Are the tills positioned, so staff face customers?
8. Is cash stored at the premises?
9. Is there a cloakroom?
10. Does the cloakroom offer free hand luggage storage?
11. Is the cloakroom facility advertised?
12. Can the toilets be monitored easily?
13. Are cupboards & drawers within the toilet kept locked?
14. Are the cisterns boxed in and secure?

15. Are there any flat surfaces?

16. Do toilet cubicle doors have a gap at top and bottom?

Managing the effects on the local environment

1. Ensure glass is not taken outside the premises.

2. Are noise levels within legal limits? (To be set by EHO).

3. Ensure that pedestrians & vehicles are not affected.

4. No rubbish on street.

5. Correct use of CCTV.

6. Are staffing levels adequate to monitor outside drinking?

7. What links do you have with local residents?

8. What steps are taken to minimise disruption when people are leaving?

Commercial policies – i.e. happy hours.

1. The incident log may show the policy is a cause of crime & disorder

Positive victim care – support for witnesses and appropriate complaint procedures

1. Is there a Positive Victim Care Policy?

CCTV

1. Has the venue got CCTV?

2. Do high-resolution cameras cover all entry/exit doors?

3. Does CCTV cover the cash office door?

4. Is there a written operational requirement for the CCTV?
5. Where is the CCTV video recorder stored and is it in a secure place?
6. Which members of staff have access to it?
7. Are the videotapes secured in a secure place?
8. Is there a record of CCTV maintenance?
9. Is there a record of the tape changes?
10. How many tapes do they use?
11. How often are they renewed?
12. Does the CCTV cover external area?
13. Has the CCTV system a dedicated operator?
14. Is the system operated in accordance with Data Protection Act? (Registered with Data Protection Registrar)
15. Is the system registered with Operation Rainbow?

See Appendix 8 for Recommended 'Minimum' requirements
for CCTV systems within Westminster

Access Control

1. Who is responsible for supervising security staff?
2. Is there a written access policy?
3. Is the queue supervised outside the venue?
4. Is the queue supervised at the cloakroom?
5. Is a record kept of door staff working on each day?
6. Are personal details of security staff kept?

Crime prevention

1. Is crime prevention literature displayed?
2. Is there a company policy regarding the display of crime prevention material?
3. Who is in charge of the policy?
4. What crime prevention initiatives are in place?

Outside eating & drinking

1. Does the venue allow outside drinking?
2. Has the venue got a WCC 'tables and chairs' licence?
3. How are customers supervised outside?
4. Is crime prevention literature displayed outside?
5. Have any crime prevention measures been implemented outside?
6. How are risks assessed regarding passing pedestrians and traffic?
7. Are staff trained to supervise those outside?
8. How are numbers of persons outside controlled? (Capacity).
9. Are tables and chairs taken in when not in use to prevent them offering opportunities for being used in crimes and disorder?

Drugs and Weapons

1. Does the premises have a search policy?

2. Are notices prominently displayed explaining the policy?
3. Do security staff patrol inside the premises?
4. Are staff trained in identifying problems within the venue?
5. Are efforts made for close supervision of toilets and poorly lit areas?
6. Are police informed of seizures?
7. Are seizures correctly documented?
8. Has the premises been supplied with self-sealed property bags and plastic weapon containers?
9. Are door staff trained in how to deal with weapons/firearms?
10. Do management/staff keep written notebooks for 'original notes' ?
11. Has the venue provided search arch, provided search wands?
12. Are door staff registered?
13. Does the venue provide local police with details of events involving outside one month notice?
14. Does the premises enter into contractual agreements with outside promoters?
15. Are police contacted before such agreements are signed?

Admission of children

1. Ensure door supervisors are trained and empowered to deal with underage drinking.
2. Put in place robust systems to monitor and control the access of young people.

3. Have a policy statement to deal with underage access which should include reference to the use of approved 'Proof of Age' schemes which include photo identity cards as in the PASS scheme.

4. Display of Policy on checking of age.

Appendix 8 - Recommended 'minimum' requirements for CCTV systems within Westminster.

1. Westminster Police recommend that you read and understand the aide memoire for effective CCTV systems produced by the Association of Chief Police Officers (ACPO). Westminster Police working in partnership with Westminster City Council also recommend that all premises within Westminster adopt the following standards.
2. The system must comply with the Data Protection Act 1998 and be registered with the Data Protection Commissioner's Office Tel No. 01625 545745, or www.dataprotection.gov.uk.

http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/cctv.aspx
3. All recording equipment must be stored in a secure area with access restricted to authorised staff only. The video recorder and tapes must be stored in lockable cabinets. A written record must be made by the person accessing the equipment showing the time, date, printed name and signature. Tapes must be kept for 31 days on a roll around basis.
4. All 'Entry' and 'Exit' points must be monitored (recorded CCTV pictures), by a camera that records every person entering in any light conditions to a minimum standard of 'frontal' Identification. In certain circumstances 'full frontal' recognition may be acceptable (see ACPO guidelines to explain Identification and recognition).
5. Additionally night-clubs / pubs must have dance floors, fire exits and areas where security searches are carried out monitored in all light conditions.
6. Further monitoring will be at the recommendation of the CPO taking into account any identified risks. This may include places such as cash offices, external areas etc.

7. Constant recording is recommended for all cameras. A 'real time' recorder giving an update time of less than one second between camera pictures of the same scene will be required.
8. No split screen or rolling monitors should be on view to the public as this identifies monitored areas.
9. Note – Where it is shown that the identified risks are greatly reduced the CPO may agree alternative requirements in consultation with the Sector Inspector and Westminster Crime Reduction Unit.

Appendix 9. Prevention of crime and disorder

Measures for pubs, bars and music and dance premises

- a) Effective measures to check the age of those possibly under 18.
- b) Ensure door supervisors are trained and empowered to deal with underage drinking.
- c) Put in place robust systems to monitor and control the access of young people.
- d) Have a policy statement to deal with underage access which should include reference to the use of approved 'Proof of Age' schemes that include photo identity cards such as the PASS scheme.
- e) Display of policy on checking of age.
- f) Whether the design and layout of the premises are likely to lead to local overcrowding.
- g) Measures to discourage excessive drinking and drunkenness.
- h) Measures to promote 'sensible drinking' including measures to encourage purchase of soft drinks including pricing of soft drinks to below that of alcoholic drinks.

- i) Regard paid to good practice guides and industry codes; e.g. on packaging and labelling; drink promotions especially discounted promotions such as “happy hours” , “buy one get one free” offers.⁵
- j) Whether drinking vessels are made of toughened glass or plastic and are designed to not have a sharp edge when broken.
- k) Whether the taking of glasses or glass bottles outside of the premises is proposed to be permitted.
- l) Whether licensed door supervisors are to be deployed and their responsibilities for prevention of disorder in the vicinity of the premises.
- m) Whether suitable use of CCTV is proposed inside and outside the premises to provide recordings of a quality to be of use in prosecutions. (See Metropolitan Police’ s minimum requirement.)
- n) Adequate measures to prevent the use and supply of illegal drugs.
- o) Adequate search procedures to prevent the bringing of illegal drugs or weapons onto the premises.
- p) Information displayed for staff and patrons and the training for staff on drug awareness including the spiking of drinks with drugs.
- q) Procedures agreed with the police, for searches, the surrender and seizure of drugs and weapons. The Metropolitan Police have produced a Guidance

⁵ Reference should be made to codes of good practice from responsible authorities and from the industry such as the Portman Group Code of Practice on the naming, packaging and merchandising of alcoholic drinks and the British Beer and Pub Association’ s Guidance on Point of Sale Promotions.

booklet "Safe and Sound- helping you manage the threat posed by drugs and weapons" which has sections on seizure procedure.

r) Participation in a Pubwatch or Clubwatch scheme.

Appendix 10. The City of Westminster Police

Licensing Policy Statement

Westminster Police are committed to reducing the levels of crime and disorder associated with premises undertaking 'Licensable Activities' and to providing active supervision of such premises. We will work in partnership with licensed premises to ensure that they are aware of the principles of good management and abide by them. Where co-operation is not forthcoming, we will enforce compliance with existing legislation by working in partnership with Westminster City Council and other Responsible Authorities. Whilst every application will be considered on its individual merits and there will be no general policy of opposing all new applications or variations, this policy seeks to allow for the fact that the City of Westminster occupies a unique position in terms of its policing challenges.

Premises licensed for the sale and consumption of alcohol create significant demands on resources. This Policy must balance the various competing rights of individuals and businesses whilst allowing police to focus their resources on those areas of greatest need and effectively reduce crime and disorder.

Westminster Police believe that the cumulative impact on levels of crime and disorder generated by licensed premises within the West End Stress Area is significant. Any further increase in the numbers of licensed premises within this area would lead to an increase in overall crime and disorder and should not be countenanced. Therefore, any application relating to premises within the West End Stress Area which is likely to add to the crime and disorder problems which already exists is likely to result in an objection by the police unless exceptional circumstances apply.

All other applications will be opposed only if their granting would lead to an increase in crime and disorder. Premises seeking to ensure that they comply with the objective of preventing crime and disorder should follow the advice contained within the relevant appendix of this Statement of Licensing Policy.

This policy should be read in conjunction with the Statement of Licensing Policy produced by Westminster City Council.

Appendix 11 - Guidance on noise

1. The council regards the control of noise as an essential aspect of good neighbourliness, contributing to the sustainability of residential and commercial communities. The Westminster Noise Strategy outlines Westminster's commitment to adopt noise conscience city management, planning and licensing.

Noise sources

2. Applicants should consider the potential sources of noise and the hours when it may be generated. The Licensing Authority's noise criteria relate to all these sources of noise whether indoors or in the open air, including:
 - (a) music and human voices, both amplified and unamplified
 - (b) other internal activities
 - (c) use of open areas
 - (d) patrons queuing
 - (e) patrons and staff entering and leaving the premises and in its vicinity
 - (f) vehicles arriving, waiting, parking and departing
 - (g) deliveries and collections including refuse and collection of recyclable materials
 - (h) plant, machinery and associated equipment
 - (i) any other factors that could cause noise disturbance.
3. Many licensed activities can cause noise that is heard outside the premises or originates from an open air site and some of these risk generating noise that causes public nuisance. The risk assessment carried out for licence applications for such activities, should take account of the criteria and guidance on noise

set out below which indicates circumstances in which a noise report will be necessary and what it should contain.

4. On the other hand, some licensed activities will generate noise at such low levels that they are unlikely to cause public nuisance. The list of criteria below should be used to determine whether it is likely that a full noise report will be required.

Information on noise

5. All applicants must provide a statement demonstrating how they do or do not comply with the following criteria. A noise report will not usually be required where all the following criteria are met.

(a) There have been no Noise Abatement Notices (Section 80 of the Environmental Protection Act 1990) served in relation to the premises within one year prior to this application.

(b) There have been no noise complaints relating to the premises received by the applicant, the council or the police within one year prior to this application.

(c) There have been no objections to the renewal of a licence in relation to the premises within one year prior to this application.

(d) There are no noise sensitive properties above, below, adjacent, opposite in the proximity of the premises or otherwise likely to be affected.

(e) There is no air conditioning, or other plant and associated equipment.

(f) There is no loudspeaker system.

(g) There are no activities involving performances of music or other sounds, whether live or recorded, or any other 'regulated entertainment' .

(h) No door staff are required as a condition of an existing licence.

(i) Deliveries, collections, servicing; use of vehicles, do not take place between 19.00 and 07.00 hours.

Noise report

6. When the Licensing Authority receives a statement from the applicant demonstrating how they do or do not meet the criteria above, it will determine whether a noise report will be required, which aspects of it will be required, what it should cover, and how it should be prepared.
7. A noise report may contain some or all of the following:
 - (a) An environmental noise impact assessment (required for all noise reports).
 - (b) An acoustic report for premises where there is plant and equipment (e.g. ventilation, air conditioning, lifts, hoists etc).
 - (c) A sound insulation and sound reduction measures assessment (for premises where there is plant and equipment and/or sound systems, or 'regulated entertainment').
 - (d) Planned management measures for control of noise disturbance related to door control, deliveries and collections, waste management, servicing, and any other aspects requiring control of noise. (This will be required in most noise reports and all applications where operating hours include any of the period 19.00-07.00 hours, and/or where door staff are required.)
 - (e) Planned management measures for control of noise disturbance from an open air site or event. (This will be required for open air sites and events.)

Environmental noise impact assessment

8. An Environmental Noise Impact Assessment should provide information, as applicable, including, but not limited to:
 - (a) Existing ambient and background noise climate and a survey of both pedestrian and vehicular numbers in and around the premises.

(b) Assessment of the existing and future noise climate due to the new or increased use of the premises, indicating any increase in predicted noise levels.

(c) Assessment of the existing and predicted number and level of noise events.

(d) An assessment of the acoustic character / quality of the vicinity of the premises and / or the receptor, this may require an assessment of a combination of ambient levels (L_{Aeq}) and other acoustic indicators and descriptors (L_{AFmax} , $L_{Zeq1/3Octave}$, $L_{ZFmax1/3Octave}$, SEL), agreement may be sought with the Council on the assessment approach.

(e) Details of management procedures to reduce the impact of the premises' operation on the locality, including noise from customers and others arriving and departing.

Acoustic report (plant and equipment)

9. An Acoustic Report should provide information for both external and internal plant, and on the prevention of noise breakout from plant, equipment and internal activities. This should cover, as relevant:

(a) Mechanical and electrical plant, machinery and equipment and their locations, with manufacturers specifications: octave or 1/3 octave band analysis of noise for the proposed plant, machinery and equipment.

(b) The location of the most relevant openable window of the most relevant noise sensitive property that may be affected by noise from the proposed licensed use/plant and equipment, with the distance and orientation between these.

(c) The proposed operational hours.

(d) The background noise level assessment ($L_{A90, 15 \text{ min}}$) over the proposed hours of operation, including: the time, date, weather conditions, instrumentation and calibration, noise sampling locations, and a copy of the noise survey data (in accordance with BS 4142 measurement methodology).

Note: The use of 'Mean' background may be appropriate in line with BS4142:2014. However, caution must be taken where there are sudden changes in background levels (for instance, where plant and machinery switches off or activity no longer occurs). A 'mean' background which includes noise before and after a significant change in acoustic environment, may result in higher background level which is not representative of the true background conditions after an activity or plant has stopped. Consideration will be given to this point and although BS4142:2014 suggests a 'mean' background, a 'lowest' background level ($L_{A9015min}$) may be more appropriate.

(e) Calculations for the predicted noise level 1 metre from the window of the most affected noise sensitive property. Note: Theoretical prediction to 1 metre from a window will not require a correction for façade reflection.

(f) A report may need to include a consideration of the existing acoustic character of the location taking into consideration noise events, the type of noise sources, ambient and impulsive noise (L_{Aeq} , L_{AFmax} , SEL) and the possible impact of the proposals / changes on the existing acoustic environment.

(g) Use of acoustic enclosures.

(h) Use of noise attenuators and acoustic screens as required.

(i) Measures to ensure that plant, machinery and equipment is maintained to prevent noise levels from them increasing.

(j) Use of vibration isolators.

Sound insulation and sound reduction assessment.

10. A Sound Insulation and Sound Reduction Assessment should provide information, as applicable, on proposed:

(a) Assessment of the existing sound insulation of the building fabric.

- (b) Operational building layout to prevent noise escape.
- (c) Sound insulation measures to prevent airborne and structural transmission of noise and vibration to adjacent premises.
- (d) Attenuation measures to minimise noise breakout, and to prevent noise disturbance to the surrounding area.
- (e) Use of electronic sound limiters on amplification systems as alternative means of control.
- (f) Other measures to reduce structural transmission of noise and vibration.
- (g) Installation of acoustic doors and lobbies.

(Note: BS 8233:2014 contains useful guidance on commercial design criteria).

Planned management measures for control of noise

11. This is a statement of management measures to be taken to prevent and control noise, covering matters such as:
 - (a) hours of operation
 - (b) location of entry and departure points
 - (c) door control
 - (d) control and prevention of queuing
 - (e) control of amplified and unamplified music and voices
 - (f) steps to be taken to achieve good behaviour outside and within the premises
 - (g) communication with customers (signs, announcements and other means)
 - (h) management of use of outdoor areas

- (i) steps to be taken to ensure customers leave quietly
- (j) advice to customers on departure routes
- (k) stewarded access to taxis and licensed mini-cabs
- (l) arrangements for dedicated taxi or licensed minicabs to collect patrons in a manner so as to minimise any disturbance
- (m) arrangements for staff and patron parking
- (n) limits set on hours for servicing and delivery
- (o) guidance to drivers to limit noise during deliveries
- (p) communications with suppliers and service providers
- (q) providing quiet means for storage and movement of waste and recycling materials.

Planned management measures for control of noise disturbance from an open air event or site.

12. This is a statement of management measures to be taken to prevent and control noise from open air events and sites, covering matters such as:
- (a) hours of operation
 - (b) location of entry and departure points #
 - d) control of queuing
 - (e) management of amplified and unamplified music and voices, details of noise monitoring positions, data collection, availability and ability to view data
 - (f) steps to be taken to achieve good behaviour outside and within the open air site

- (g) communication with patrons or members of the public (signs, announcements and other means)
- (h) management of use of covered and outdoor areas
- (i) steps to be taken to ensure customers leave quietly
- (j) advice to customers on departure routes
- (k) stewarded access to taxis and licensed mini-cabs #
- (m) arrangements for staff and patron parking
- (n) limits set on hours for servicing, delivery and any other on site traffic movements
- (o) guidance to drivers to limit noise during deliveries
- (p) communications with suppliers and service providers
- (q) providing quiet means for storage and movement of waste and recycling materials.

Noise criteria

13. Licensed premises and activities will be required to meet the noise criteria in Policy PN1. Noise reports should show how these criteria will be met. Plant noise breakout and structural transmission
14. Applicants should demonstrate that the licensed activities from indoor premises, and open areas associated with them, can be carried out so that plant noise, airborne noise breakout, and noise and vibration transmitted through structures, will meet the criteria for indoor premises below.
15. Applicants should demonstrate that the licensed activities from open air premises can be carried out so that plant noise, airborne noise, and noise and vibration transmitted through structures will meet the criteria for open air premises at paragraph 19 below.

Indoor premises plant and equipment

16. Premises should be capable of being operated at all times of year without doors or windows being opened for ventilation. Air handling and air conditioning plant and systems must be designed and located so that noise emitted meets the criteria in Paragraph 17 below. The council will require the applicant to ensure maintenance of building plant and machinery so that the above standards will be met at all times.

Indoor premises plant & machinery and internal activities

17. The criteria relating to:
- (a) plant, machinery and associated equipment, internally or externally installed
 - (b) ventilation
 - (c) music and human voices, both amplified and unamplified and to
 - (d) other internal activities are noise emitted will achieve the following standards in relation to the existing external noise levels at the nearest noise sensitive properties⁶, at the quietest time during which any of these activities occur:
-

⁶ Noise sensitive properties include: all residential property; schools; hospitals; hotels; hostels; concert halls; theatres; broadcasting and recording studios.

At the nearest façade of the nearest noise sensitive property, the noise generated from the property to be licensed (the LAeq5 min) should not exceed 10 dB below the minimum external background noise during the operating period. The background noise level should be expressed in terms of the lowest LA90, 15 min.; and; where noise from the property to be licensed will contain tones or will be intermittent sufficient to attract attention:

At the nearest façade of the nearest noise sensitive property, the noise generated within each octave band level (LA eq 5 min) should not exceed 5 dB below the minimum external background noise level expressed in any of the individual octave band levels. The background noise level should be expressed as the lowest LA90, 15 min for each of the octave bands during the operating period.

Indoor premises structural transmission of noise and vibration

18. Applicants should ensure that as far as is reasonably practicable, licensable activities will be conducted and the facilities for licensed activities will be designed and operated, so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties. In the case of licensable activities involving the playing of music or the operation of kitchens, or the running of plant after 23.00 hours applicants may be required to demonstrate this.

Open air premises plant & machinery and other activities

19. The criteria relating to:
 - (a) plant, machinery and associated equipment, internally or externally installed
 - (c) music and human voices, both amplified and unamplified

(d) other activities.

Criteria:

Account will be taken of:

- (i) the type/s of events planned
- (ii) the number of events that take place each year
- (iii) the numbers of participants and people attending each event
- (iv) the times of day and duration of events
- (v) the days/dates of the events
- (vi) conformity to The Noise Council's 'Code of Practice on Environmental Noise Control at Concerts', guidelines and recommended noise control procedures
- (vii) conformity to standards set by the council in relation to the existing external noise levels at the nearest noise sensitive properties.⁷

The council has previously set standards in agreement with event organizers for lower noise levels than in Code of Practice on Environmental Noise Control at Concerts: published by the Noise Council.

⁷ Noise sensitive properties include: all residential property; schools; hospitals; hotels; hostels; concert halls; theatres; broadcasting and recording studios.

People arriving, departing and in the vicinity

20. Applicants should demonstrate that appropriate measures will be taken to limit noise from patrons and staff entering and leaving the premises, and vehicles arriving, departing and in the vicinity to prevent avoidable noise disturbance to noise sensitive properties. The kinds of measures that may be used include:
- (a) Installation of an acoustic lobby with inner and outer acoustic doors, designed to prevent both sets of doors being opened at the same time, together with management arrangements to ensure this.
 - (b) Signs and verbal advice to patrons to encourage them to limit noise as they wait outside and as they leave the premises.
 - (c) Guidance to patrons on routes to take as they depart, to cause least disturbance.
 - (d) Guidance to staff on their responsibilities to minimise noise from patrons as they arrive at and depart from the premises.
 - (e) Guidance to staff to minimise noise from any activities outside and in the vicinity of the premises.
 - (f) Arrangements for the calling of taxis, minicabs, cars or limousines from within the premises and for the collection of patrons by arrangement.
 - (g) Arrangements with dedicated taxi, minicab, car or limousine companies to collect patrons in an agreed manner so as to minimise disturbance.

Deliveries, collections and servicing

21. The criteria relating to deliveries, collections and servicing are that the applicant must demonstrate appropriate measures that will be taken to limit noise from these sources and that these will prevent avoidable noise disturbance to noise sensitive properties. Such measures may include:

(a) Ensuring that deliveries, collections and operational servicing are carried out between 07.00 and 19.00 hours, except where access at other times is unavoidable and specific procedures are in place to limit disturbance.

(b) Guidance to drivers to switch off engine during deliveries, collections and servicing, and to minimise other noise caused by their activities.

Appendix 12. Supporting data and evidence

The importance of entertainment and licensed activities

1. The entertainment industry in Westminster is part of the appeal of London as a vibrant city. It attracts tourists and visitors from across the UK and from overseas. It is a major contributor to Westminster's economy and a major growth sector. The Evening and Night-time economy (ENTE) in Westminster is the largest concentration of its kind in the UK. It is significantly bigger than the combined ENTEs of Edinburgh, Birmingham and Manchester and its diversity and degree of concentration of entertainment in the West End are unique.
2. ENTE activities equate to 23% of all employment in Westminster and 13% of all sales revenue. In 2013 the economic output of the ENTE in Westminster was £7.7 billion, with some 220,000 people employed in nearly 11,000 businesses. The number of Drinks, Entertainment and Food led businesses which make up the "core" ENTE grew by 24% between 2003 and 2013, with sales revenues increasing by 28% to £2.7 billion.
3. ENTE activity is not distributed evenly across Westminster but highly concentrated, especially in the West End Cumulative Impact Area. Geographically, the West End Cumulative Impact Area comprises just 4.5% of the total land area of Westminster yet it contains nearly 20% of all ENTE activity and over 10% of all Westminster economic activity.
4. Significant concentrations of ENTE activity are also found in the Edgware Road Cumulative Impact Area, 0.4% of the area of Westminster and 1.8% of its ENTE activity, and the Queensway/Bayswater Cumulative Impact Area, which consists of 0.6% of Westminster's land area and contributes 2.0% of its ENTE activity.
5. The good management of licensed premises and of the street environment in which they operate is essential to the success of London, to ensure that it both

has a successful entertainment industry and is a place where a wide range of people want to live and to visit.

Growth in licensed premises in Westminster

6. In the nineties and the early years of this decade, the numbers, capacity and hours of operation of premises licensed for the sale of alcohol or for entertainment or as night cafés increased very rapidly, particularly in the West End.
7. The total number of liquor licences in Westminster increased by nearly 400 (16%) from 1991 to 2002 rising to 2927. The number of licences for pubs and bars (full on licences) increased more rapidly by 43% to 1468 with 538 additional licences being granted between 1991 and 2002.⁸
8. The number of public entertainment licences (see Glossary) in Westminster increased nearly two and a half times from under 150 in 1992 to over 370 in 2002.⁹ In 2002, these premises with entertainment licences could accommodate 179,295 people; three times the number they could hold in 1992. The vast majority of premises with public entertainment licences for music and dancing also held Special Hours Certificates on their Liquor Licences which permitted them to serve alcohol while the entertainment is in progress up to 03:00 a.m. in those parts of the West End bounded by Mortimer, Cavendish and Wigmore Streets, Seymour Place, Park Lane and the Strand, and 02:00 in the remainder of the city.

⁸ Magistrates Courts Authority 2002

⁹ WCC Licensing Service Public Entertainment database

9. The number of public entertainment licences in the West End more than doubled from 85 in 1992 to 184 in 2002; with 121 of these premises closing at 03:00 or later.¹⁰ In 2002, premises in the West End Cumulative Impact Area with entertainment licences could accommodate 80,690 people.
10. The number of licensed night cafés in Westminster nearly doubled from 80 in 1992 to 155 in 2002¹¹ as did the number in the West End from 48 in 1992 to 88 in 2002. They have the capacity to hold 7,000 customers.¹² In the Edgware Road Cumulative Impact Area the number of licensed night cafés more than doubled from 11 in 1992 to 28 in 2002 having the capacity to hold approximately 1,400 customers. In Queensway, they increased from 2 in 1992 to 7 in 2002 with a capacity for 400 customers. Many premises with night café licences only operate a takeaway service late at night; the number of people they serve is many times greater than the numbers they can hold under the terms of their licence.
11. The Licensing Act 2003, which came fully into operation in November 2005, has changed the whole basis of licensing so that there are no longer separate public entertainment, late night refreshment and liquor licensing regimes. Licensable activities that were authorised by these previous regimes are now authorised under the Licensing Act 2003. The Licensing Act 2003 removed the need to hold a licence to provide cold food and drink after 23:00 (midnight for take-away food and drink) but it created a requirement for the provision of hot food and drink in premises which had been previously able to provide it

¹⁰ Town Centres Ltd, 2001. West End Entertainment Impact Study. (pg. 39)

¹¹ WCC Licensing Service: Night Cafés database

¹² Town Centres Ltd. 2001 West End Entertainment Impact Study

under a liquor licence. As a result of these changes data in licences granted under the Licensing Act 2003 are not directly comparable with data on licences granted under the previous regimes.

12. The number premises licences held in November 2007 was 2960. By the end of 2010 the total number of licensed premises in Westminster had increased to 3149, an increase of 6.4% in 3 years, but has since stabilised with 3134 licensed premises in October 2015.
13. Westminster's 45 theatres have a combined capacity to hold over 41,000 people. Over three-quarters of all central London theatres are in Westminster amounting to over a third of all the theatres in London. There has been an increase of 18% in the number of theatres from 2010 to 2015.
14. There are 16 cinemas operating in Westminster with some 60 screens. There are 12 cinemas in the West End Cumulative Impact Area, one in each of the other Cumulative Impact Areas and two outside the Cumulative Impact Areas. There has been relatively little overall change in the overall number of cinemas in Westminster since 2010.
15. There are 20 premises with casino licences operating in Westminster (one operates as poker rooms). One casino licence has been granted by the Licensing Justices since 2004. Five further applications have been refused licences by the licensing magistrates since 2004 despite the premises having been granted planning permission for casino use by the council.

Current pressures and impacts

16. The growth of the entertainment industry brings positive benefits to Westminster but there are associated pressures and impacts related to public nuisance, public safety and crime and disorder. Many of the streets in Soho have night time pedestrian flows of over 40,000 people a night, with flows of 7,000 an hour recorded in a night time activity survey. Leicester Square, Shaftesbury Avenue, and Soho have substantially higher pedestrian flows at night than in the daytime. Edgware Road, Jermyn Street, Queensway, and

Piccadilly¹³ have night time pedestrian flows comparable to their daytime flows.

17. 10 of the 31 Tube stations in Westminster are in or immediately adjacent to the designated cumulative impact areas but account for 51% of all persons exiting the tube network onto Westminster's streets. The number of people recorded as coming into the West End by underground train between 19.00 and 01:00 is over 74,000; with over 209,000 people leaving the West End during this time, over twice the number leaving between 10.00 and 16.00.
18. A witness statement of Chief Inspector Scott¹⁴ states that he is "Aware that between 250,000 and 500,000 revellers frequently attend venues within Mayfair and Soho on Thursday Friday and Saturday Nights." He states that from his experience that "This Station (West End Central) regularly runs out of officers to attend emergency calls between the hours of 1 am and 4 am due to the demand generated by intoxicated people leaving premises with extended liquor licences."

The capacity of the transport system to serve late night activity

19. Customers from the whole of London and much of the South East come into the West End attracted by the many specialised, large, and high quality venues that operate late into the night. The underground and rail networks carry in over a million people a day who come to work, shop or to visit Westminster

¹³ City of Westminster, 2002 Daytime and Night Time Pedestrian Flowcount Surveys (PMRS)

¹⁴ Witness statement of Chief Inspector David Scott November 2007

for other reasons.¹⁵ These rail services easily carry in those coming to enjoy a night out but they do not operate late enough to carry them all home again. The last trains on London Underground currently leave the centre of Westminster between 00:25 and 00:35.¹⁶ The last suburban and mainline trains generally leave at a similar time.

20. London benefits from one of the largest networks of buses anywhere in the world. A number of routes run for 24 hours, and many locations, including town centres and the West End, are served by buses throughout the night. In 2003/04 there were 27 million night bus passenger trips, an increase of 82 per cent on 2000/01. The density of routes and the frequency of service are greatly reduced by the time it reaches the outer suburbs. Although greatly improved in recent years, the night bus service is still unable to cope with the numbers of people that leave premises after 00:30. There are some 330 premises in Westminster capable of holding 156,000 people that close after the underground stops running.¹⁷ In response to proposals to extend the running of the underground network the Council is committed to assessing the impact of new arrangements when reviewing policy, as set out in paragraph 2.3.11 of this policy.
21. Westminster has somewhat different problems to that identified in Revised Guidance found in many towns where taxi ranks become the focus of friction. Despite recent increases in the night tariff, taxis are reluctant to take fares late

¹⁵ Annual Business Inquiry, 2005

¹⁶ TfL first and last latest tube timetabled for Bakerloo, Piccadilly, Victoria, Northern and Central lines

¹⁷ WCC Licensing Service Public Entertainment database

at night. The number of taxis and licensed minicabs, which are able and willing to take late night revellers home, is inadequate to meet demand. Unlicensed and otherwise illegal minicabs are joined by rickshaws/pedi-cabs, which come into the narrow streets in the heart of the West End to seek and pick up passengers. This is accompanied by widespread illegal touting. They frequently clog up the streets leading to the sounding of horns, making it difficult for the police and other emergency service vehicles to get through.

22. The extent of these problems is unique to central London because of the numbers of people and the distances involved. This precludes the possibility of walking home for most people. Crowds disperse slowly with people staying on to visit night cafés or pick up takeaway food before they find minicabs and catch night buses. Some people remain on the streets until the London Underground starts running between 05.30 and 06.00 from Monday to Saturday and 07.00 to 07:30 on Sundays.¹⁸
23. The witness statement of David Scott states that “There are in my view more people on the streets of the area that I am responsible for after 1 am than can be carried safely catered for by the supporting transport infrastructure. This is mainly due to the tube network closing down between midnight and 1am.”

Crime and disorder

24. The council has a duty to do all that it reasonably can to prevent crime and disorder in the area, under section 17 of the Crime and Disorder Act 1998. It has paid special attention to this duty in formulating its Statement of Licensing Policy. The reduction of crime and disorder have been priorities in previous

¹⁸ Transport for London first and last latest tube timetables for Bakerloo, Piccadilly, Victoria, Northern and Central lines

years .The fear of crime created by disorder including drunkenness is as damaging to public confidence and the quality of life as crime itself.

25. The council' s Crime and Disorder Reduction Strategy 2014 - 2017 aims to reduce crime, disorder, nuisance and the fear of crime to make Westminster a safer place to live in, work in and visit. The council has initiated schemes to assist in reducing crime and disorder including the installation of CCTV cameras across the West End and the introduction of Westminster Wardens in Leicester Square, Covent Garden, and elsewhere. Joint working with the Metropolitan Police is on-going including the funding of radio links from some pubs and clubs to the Police. The Westminster Crime and Disorder Strategy, produced by the Crime and Disorder Partnership is a three-year strategy running to from 2014 to 2017 for reducing crime and disorder, safeguarding communities, and reducing the fear of crime and improving the quality of life in the city.
26. The Police in Westminster are fully committed to minimising crime and disorder which results from the use of alcohol and often tarnishes the late night entertainment industry. As a responsible authority the Metropolitan Police have been consulted in the drawing up of this Policy Statement and are committed to upholding its principles.
27. It is widely acknowledged and recognised by the Home Office that there are strong links between the consumption of alcohol and crime. Nationally, alcohol is a factor in 30% of city centre arrests¹⁹ and this proportion is rising. However, the number of convictions and cautions for drunkenness are now at only 70% of their 1991 levels and those for the selling of alcohol to under

¹⁹ Alcohol Harm Reduction Project Interim Analytical report Simmons et al (2003)

18' s and those for the purchasing of alcohol by under 18' s, are at 25% and 10% of their 1991 levels. This is more to do with policing resources and priorities as any actual reduction in these offences.²⁰ Alcohol also causes an increase in anti-social behaviour, with some 43% of violent incidents being under the influence of alcohol misuse.²¹

28. The analytic study preceding the Government' s Alcohol Harm Reduction Strategy recognises that the likelihood of aggression and violence is heavily influenced by both the characteristics of licensed premises and their surrounding environment. The factors on the premises identified affecting incidence of violence include

- the skill, experience, attitude and management
- a young clientele especially if allowed to drink to intoxication
- the layout and design of premises, if leading to crowding and queuing
- unpleasant, poorly ventilated premises
- a lack of seating
- playing loud music

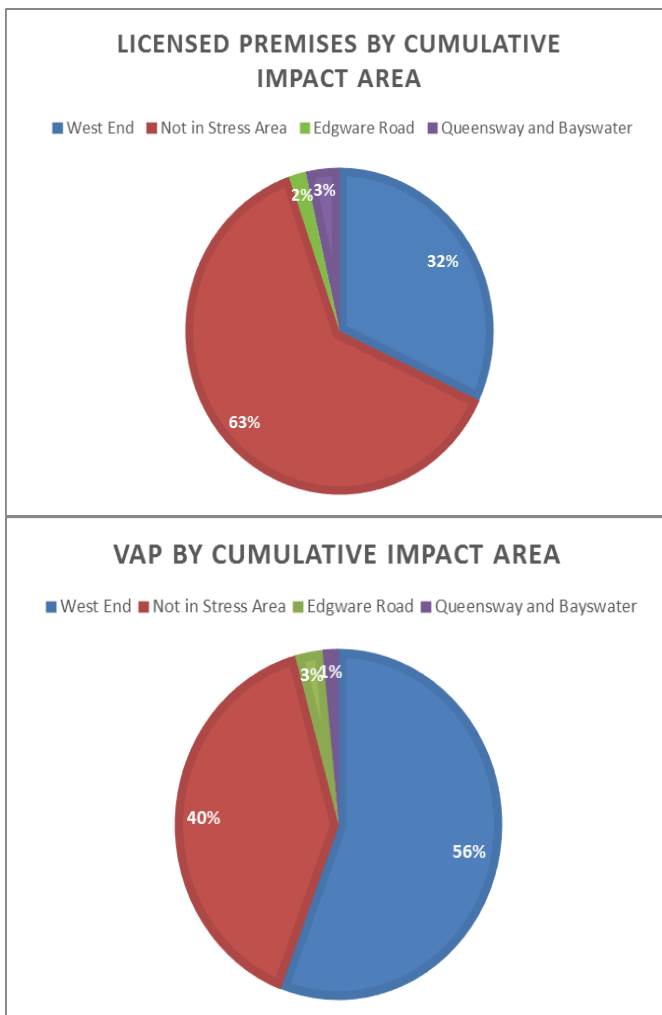
29. The factors in the surrounding environment include competition for scarce resources such as transport. This is exacerbated in areas where there is a high

²⁰ Alcohol Harm Reduction Project Interim Analytical report Lan Ho et al (2002)

²¹ Crime in England and Wales 2005/6 Home Office Bulletin quoted in Safer Sensible Social: the next steps in the national alcohol strategy

density of venues, if there is a lack of public transport and if venues all close at the same time.

30. Data relating to reports of incidence of violent crime in licensed premises has been collected for each of the last 3 financial years which run from April to March. Comparison between incidents related to premises in different locations and at different times illustrates some of the impacts of the ENTE and the influence that the policy may have in conjunction with other factors. A comparison of numbers of licensed premises in each of the Cumulative Impact Areas and the related “violence against the person” (VAP) incidents shows that premises in the Cumulative Impact Areas to have a higher rate of incidents associated with them.



31. The data has also been analysed based on the location of incidents, and whether the incident occurred during the time periods 4pm to 8pm, 8pm to midnight, or between midnight and 4am. Midnight is the latest time that pubs

are generally open under the core hours policy and the next four hours is the key time for the operation of the night-time economy. Comparative tables below show the data both for the whole of Westminster and for the area of the city within the West End Cumulative Impact Area.

32. These analyses for the periods in question show that across the whole of the city there are a significantly higher number of incidents in the 4 hours after midnight compared to the 4 hours prior to midnight. There has been an increase in incidents in all time periods, but a more significant increase in incidents before midnight. In the West End Cumulative Impact Area incidents have also increased, albeit from a low base, at all times, but the increase is significantly less after midnight. The council believes that the consistent application of the cumulative impact area special policies has contributed to the smaller increase in incidents between midnight and 4am in the West End Cumulative Impact Area.

Violent Crimes Reports in Licensed Premises – All Westminster

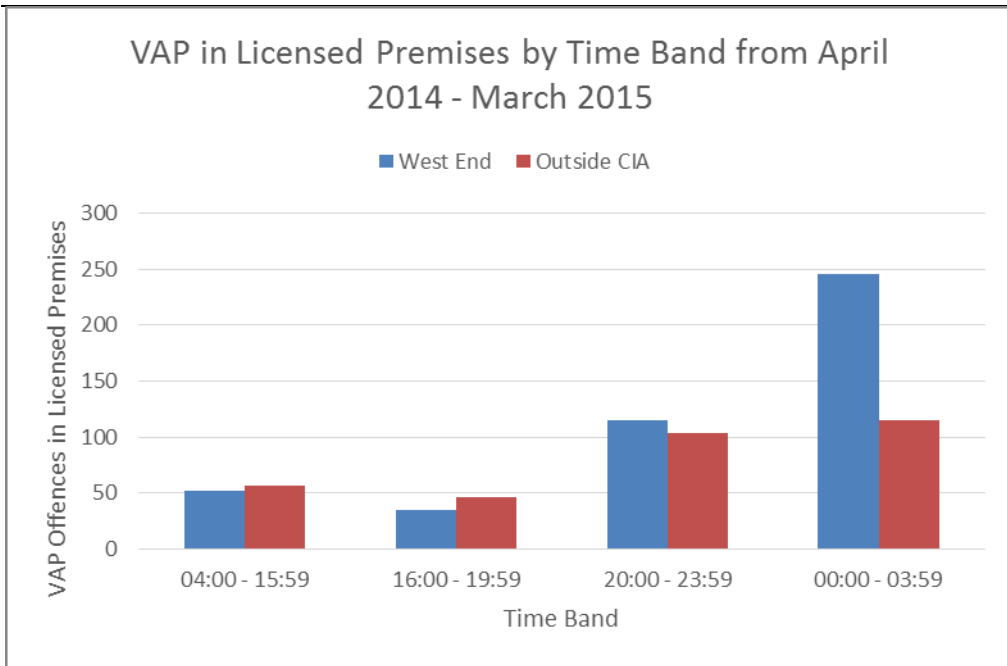
	Violent Crimes Reports in Licensed Premises		
All Westminster	Evening	Night	Late Night
VAP (all violence)	4pm to 8pm	8pm to midnight	Midnight to 4am
2012 / 2013	70	168	334
2013 / 2014	79	175	289
2014 / 2015	91	227	369

Change 2012 / 2013 to 2014 / 2015	+30.0%	+35.1%	+10.5%
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Violent Crimes Reports in Licensed Premises – Within West End Cumulative Impact Area

	Violent Crimes Reports in Licensed Premises		
Within West End Cumulative Impact Area	Evening	Night	Late Night
VAP (all violence)	4pm to 8pm	8pm to midnight	Midnight to 4am
2012 / 2013	25	94	232
2013 / 2014	22	104	198
2014 / 2015	35	115	246
Change 2007 / 2008 to 2009 / 2010	+40.0%	+22.3%	+6.0%

33. A comparison of the number of reported VAP incidents in the West End Cumulative Impact Area and the area outside the cumulative impact areas over time illustrates how the number of incidents is concentrated in the West End. Taking into account that the West End Cumulative Impact Area makes up only 4.5% of the area of Westminster the concentration of incidents of VAP is stark, and especially so after midnight.

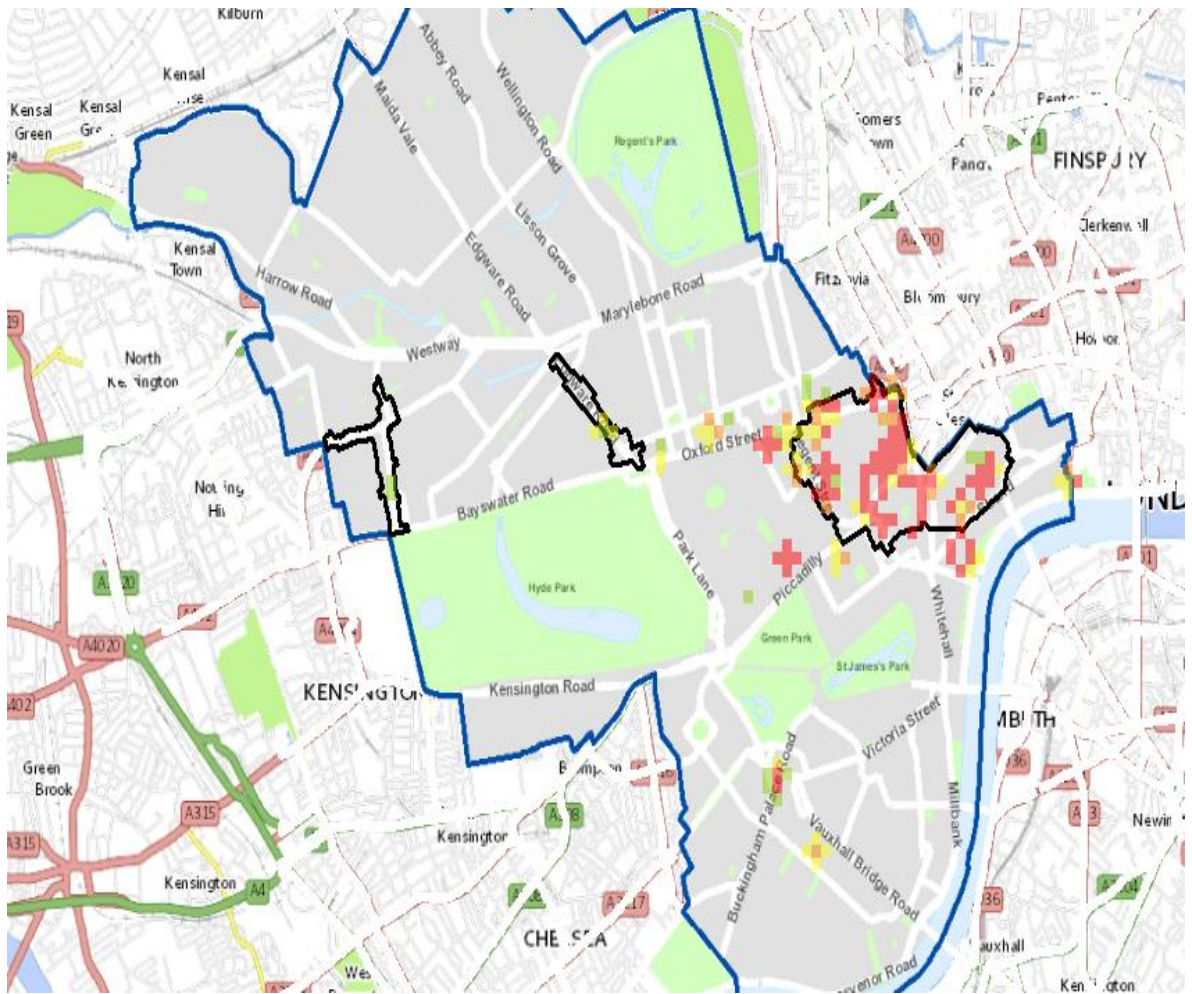


Alcohol and crime

34. The following map shows the distribution of 'Violence Against the Person' offences in licensed premises during the year April 2014 to March 2015. The map shows high concentrations of offences recorded in and around the West End Stress Area. This demonstrates a consistent distribution pattern since the introduction of the Licensing Act 2003.

Concentrations of crime reports of violence against the person (VAP)

VAP in Licensed Premises April 2014 to March 2015



35. Police statistics often give an incomplete picture of the level of disturbances occurring late at night. This has been highlighted in the statement provided by Chief Inspector Scott: "It is clear to me that there are many instances of antisocial behaviour go unreported. This is because of the acceptance that the police are unlikely to respond quickly enough to catch the people responsible. There is also concern amongst residents that police response times to their 999 calls do not meet their expectations. This is frequently due to officers dealing with incidents at or in relation to licensed premises."
36. Another instance of under-recording is that figures for arrests per hour in the early hours of the morning often show a decline in the number of arrests as the night wears on. This often does not reflect any lessening of offences being committed, but rather the lower number of police officers still on the street because other police officers are at the police station dealing with those arrested earlier in the night.

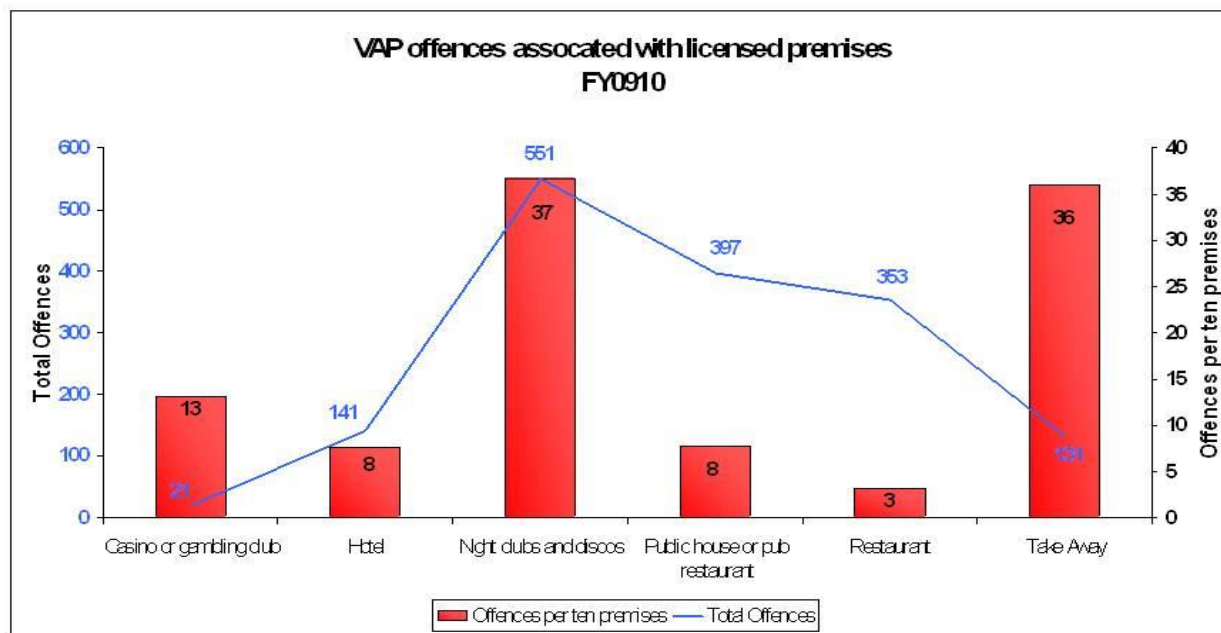
Opportunities for crime

37. Crowds of people on the streets late at night can create a sense of anonymity and people can believe that they can indulge in anti-social behaviour without the risk of effective sanctions being applied. The crowds also provide opportunities for crime and cover for drug dealers, pickpockets and street robbers.

Violent crimes by types of premises

38. A study of crime reports in licensed premises in Westminster from April 2009 to March 2010 indicates that for every 10 restaurants there were 3 violent incidents in the year. This compares to 8 for every 10 pub/restaurants and 37 for every 10 nightclubs.

Violence by premises type April 2009 - March 2010



Public nuisance

39. The British Crime Survey for the year ending December 2014 shows that 19% of respondents thought that alcohol related disorder was a problem compared to 20% in 2003. The predominant late night noise complaint in the central part of the city is commercial noise. Elsewhere in the city, it is domestic noise. People can be disturbed by noise coming directly from commercial premises at late hours, (noise breakout) the handling of refuse and recyclable materials and the direct effects of customers arriving at and especially leaving premises, this is often aggravated by the behaviour of minicab drivers who often block the streets giving rise to the sounding of car horns.
40. Analysis of noise complaints to the council associated with licensed premises illustrates a significantly higher proportion of complaint in each of the cumulative impact areas compared to other areas of Westminster.
41. The overall noise levels in the West End Cumulative Impact Area are high with night time noise at an average (background) level of 45 decibels, which is a level liable to induce some disturbance of sleep without any additional noise incidents. The cumulative impact of background night time noise generated by

people enjoying the facilities of the West End is such that it can amount to a public nuisance even without the addition noise that arises from bad behaviour or disorder.

42. Noise disturbance is added to by the noise of the public services attempting to deal with crime and disorder on the streets. Traffic and people clog-up the roads in the West End Cumulative Impact Area and emergency vehicles making their way through the congested streets add to the noise. The need to collect the litter and to clean and wash down the streets adds to the degree of disturbance as these operations have to be carried out after 03:00 as this is the time when the streets are starting to clear and refuse and sweeping vehicles can get through.
43. Street urination is a nuisance associated with licensed premises. The concentration of numbers of late night premises in the West End has been a major reason for the council introducing temporary night time street urinals. Since 2004 there have been regularly deployed each weekend and it is estimated that they together are used about 5,500 times over the weekend and thus help reduce the incidence of street urination.

Observed levels of nuisance and crime and disorder

44. A night time activity study of observed behaviour was conducted by Pedestrian Market Research Services for one night in July 2002 between 23:00 and 04:00.²² Observations were undertaken for seven minutes in the hour on a

²² City of Westminster, 2002 Daytime and Night Time Pedestrian Flowcount Surveys (PMRS)

single night. Some incidents would take place at times when there were no observations being made. The total number of incidents was therefore likely to be substantially greater than those recorded. Observations were made at several points in each of the areas.

- Soho had the highest observed levels of anti-social behaviour due to the presence of large numbers of drunken people with high levels of audible music and queues outside premises. Noise from mini-cab and pedi-cab touts was noted throughout most of the night.
- In Chinatown audible noise in the area was high throughout the night, mainly from buskers and people shouting/screaming in the streets.
- In Leicester Square levels of anti-social behaviour increased between 02.00 and 04.00 with evidence of mini cab touts, drunkenness and rowdy and aggressive behaviour with significant disturbances throughout the night with high noise levels, drug dealing and pick pocketing. There was a menacing, aggressive atmosphere.
- In the Covent Garden Piazza, before midnight, noise levels were generally high and there were incidences of anti-social behaviour including people screaming and urinating in the side streets.
- Other areas in the West End Cumulative Impact Area, nearly all the areas had some evidence of begging, urination, vomiting, mini-cab touting, busking, and shouting and screaming. There were some small pockets of increased levels of anti-social behaviour noted in these areas, mainly due to people leaving bars and clubs late at night.
- Queensway/Westbourne Grove had a relatively threatening atmosphere throughout the night, with a heavy police presence

between 22.00 and 23.00. Incidents of anti-social behaviour throughout the night included shouting, singing, and fighting. Police were called to incidents. Noise levels were generally high, with traffic as the dominant source of noise, but music from several venues, alarms, and sirens also caused significant disturbance.

- Along Edgware Road, there were several incidences of anti-social behaviour early on in the night, with the area considered to have a threatening atmosphere. The area close to Church Street provided evidence of underage drinking and groups of youths acting in a hostile manner.

43 A Westminster Evening and Night-time Economy Behaviour Audit 2015, which involved 400 hours of evening and night-time observations in the West End Cumulative Impact Area and 2 control areas outside of it, confirms the impact that cumulative impact has in the West End. The study found that cumulative impact areas such as the West End are almost invariably a 'victim of their own success' in that the crime and disorder levels relate directly to the outstanding success of particular locations as local leisure economies. The numbers of visitors attracted and the subsequent amount of human activity has an almost inevitable effect of increasing the numbers of crimes recorded. These crimes occur often alongside the more desirable aspects of social behaviour, with most visitors enjoying their nights out.

44 In comparing the evening to the night time the study found that drunkenness and the actions, behaviour and sounds associated with it had higher average incidences per hour and increased in prevalence throughout the 10-hour recording period in comparison with other anti-social behaviour (ASB) activities. Urination in a public place also increased in the post-midnight period. Street drinking was predominately an evening and late-evening activity, reducing after midnight.

- 45 “Drunkenness Sound” and “Drunkenness Action” categories recorded as pro-social were noted, with less degree of temporal divergence, across the 10-hour period than those recorded as anti-social. Levels of anti-social drunkenness were generally much lower in the evening than at night, with two isolated exceptions linked to unseasonably hot weekend weather and the events calendar. Levels of prevalence for pro-social drunkenness reduced with the lateness of the hour. Similarly the conviviality of groups of visitors was, on average, high in the evening period. This reduced steeply as the hours then progressed.
- 46 The study notes that the high levels of drunkenness recorded in the late-night period, combined with the relatively early-hour desistance from street drinking suggest that, although alcohol-preloading will undoubtedly contribute to levels of ASB, there is a strong correlation between anti-social drunkenness and the later closing hours of on-licensed premises. Our survey indicates that anti-social activities related to public drunkenness continue to rise for several hours beyond midnight in locations throughout the West End Cumulative Impact Area.
- 47 The study however found that this is not true of the control areas, which are outside of the cumulative impact areas.
- 48 The study further stated that there is a general professional consensus that efforts by crime reduction partnerships to monitor and prevent alcohol-related violence in the ENTE should focus, not on causality (attempting to distinguish between cases which were, or which were not, due to the intoxication of the offender or the victim, although it is known that consumption is almost certainly a contributory factor), and should instead focus on the location and timing of offences.
- 49 In relation to the West End, the report concluded that “in the light of these considerations and of the Guidance accompanying the Licensing Act 2003 with regard to the establishment of Cumulative Impact Areas,

we believe our research to indicate that Westminster's 'West End Cumulative Impact Area' policy retains a strong evidence base" .

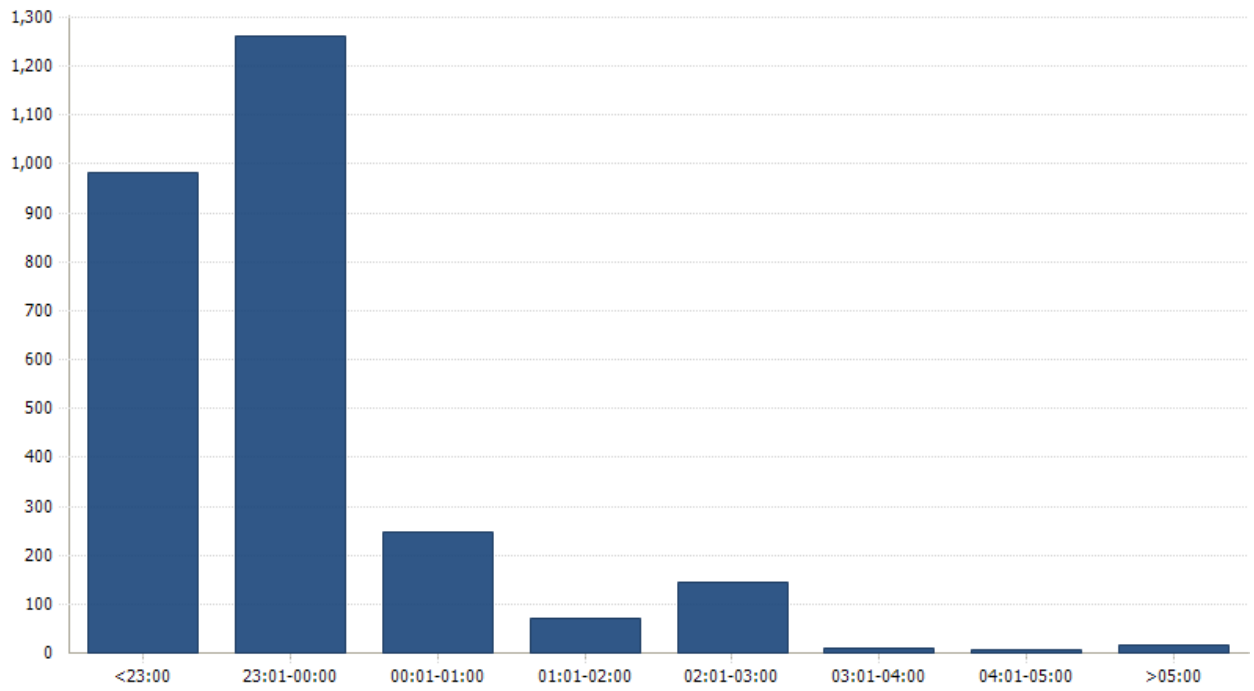
Appendix 13. Hours of operation of Licensed Premises

Closing hours

1. Westminster has a very large number of premises that sell alcohol later than 23:00, which is past the generally permitted hour for pubs and bars under the Licensing Act 1964. In 2003, there were 337 premises open after midnight. Under the operation of the Licensing Act 2003, and application of the council's "core hours" policy which generally permitted premises to sell alcohol until midnight on Friday and Saturday nights, this number had increased to 477 by 2015.
2. Premises licenses commonly permit different licensable activities to different terminal hours, and, for each licensable activity, different hours on different days of the week. To illustrate how licensable activity in premises is distributed over time the graph below sets out the latest hours authorised for the sale of alcohol on Friday night into Saturday morning. It is only by 04:00 that these numbers are significantly reduced with 38 premises still open.

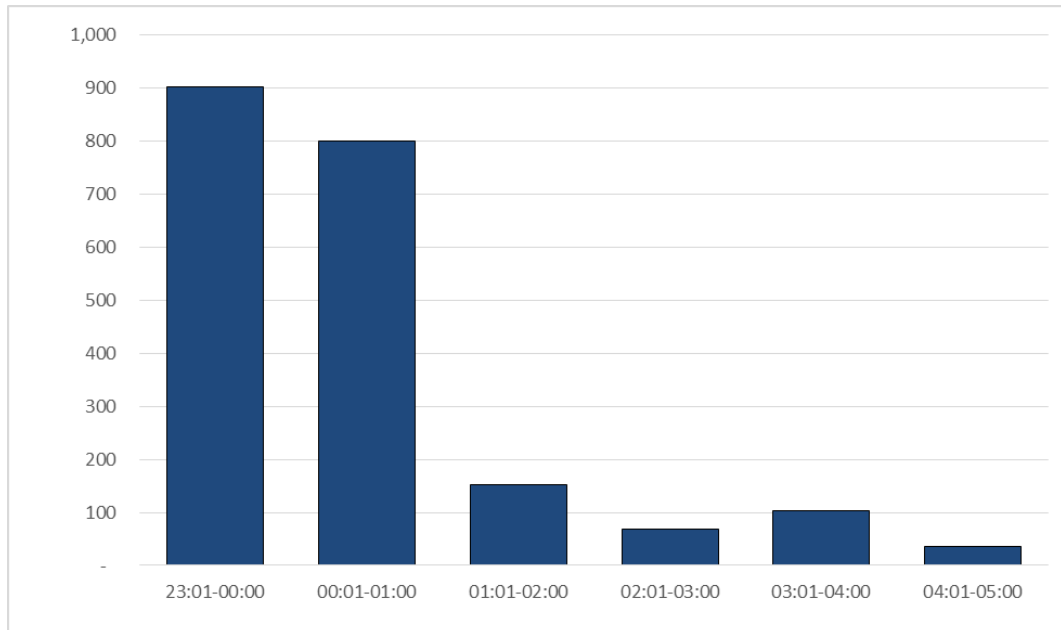
Premises Licences in Westminster

Latest authorised hours for the sale of alcohol on Friday night/Saturday morning



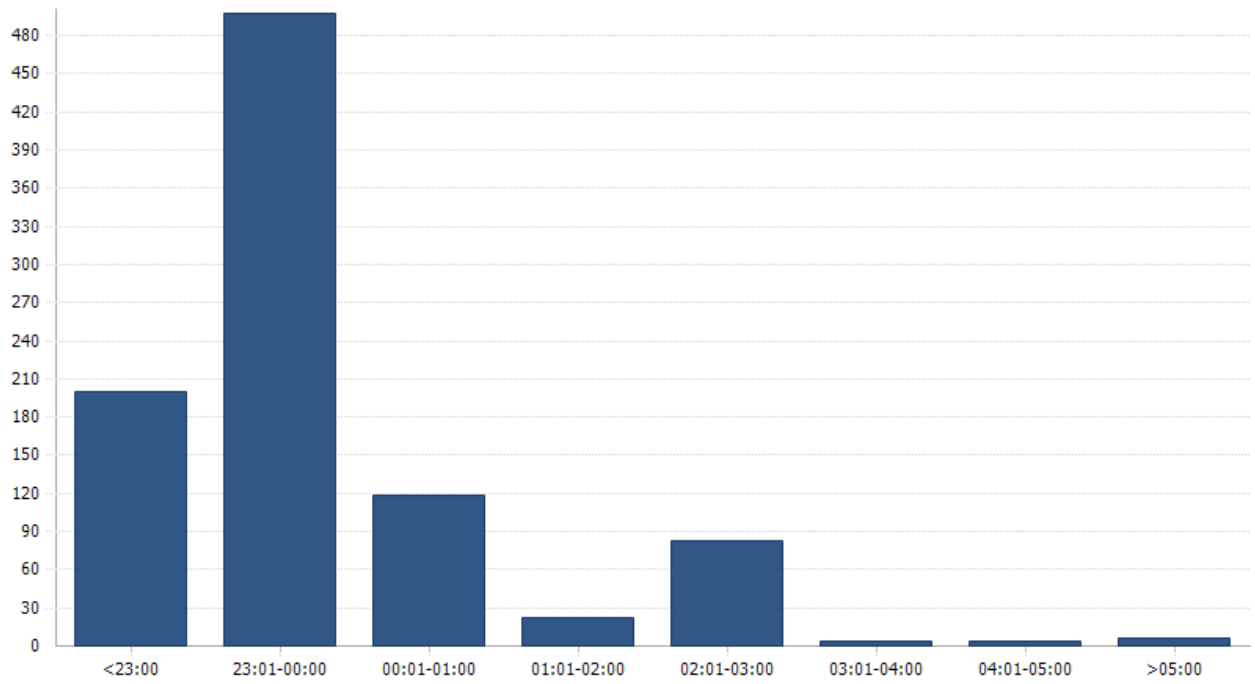
3. Similarly, a temporal analysis of premises licensed for the provision of late night refreshment illustrates the extent of licensable activity in the ENTE.

Latest authorised hours for the provision of late night refreshment on Friday night/Saturday morning

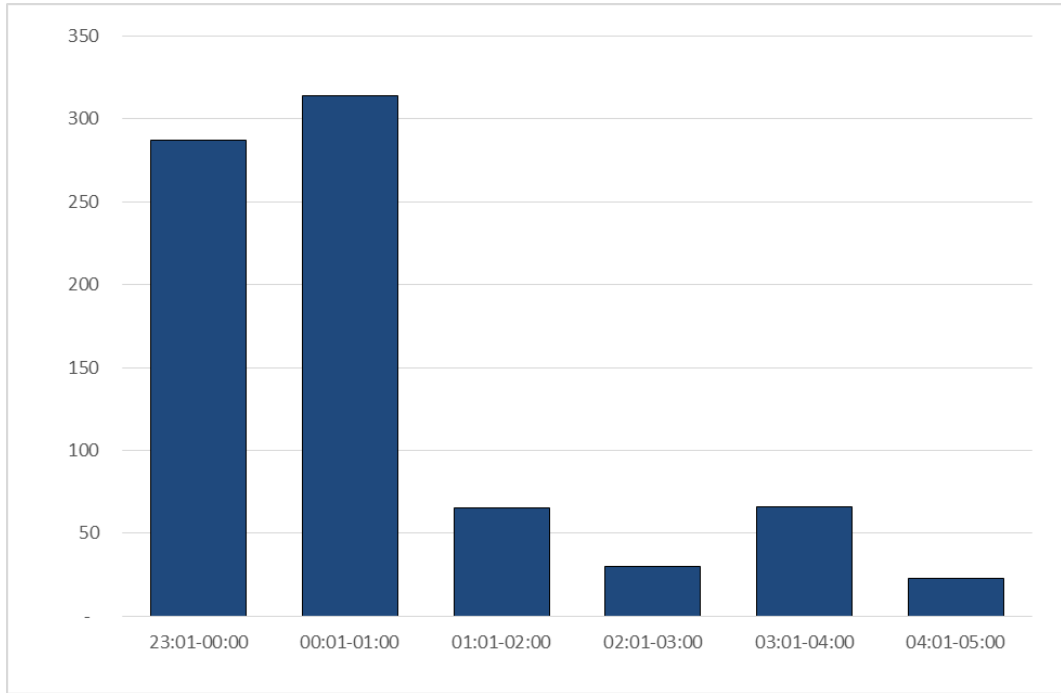


4. The extent of late night licensable activity is not equally distributed as the graphs below, showing activities in the West End Cumulative Impact Area, illustrate.

Latest authorised hours for the sale of alcohol on Friday night/Saturday morning in the West End Cumulative Impact Area:



Latest authorised hours for the provision of late night refreshment on Friday night/Saturday morning in the West End Cumulative Impact Area:



Appendix 14. Cumulative Impact Areas

- 1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. (Revised Guidance, paragraph 13.20).
- 2 In parts of Westminster the growth, type and density of licensed premises is such that it causes problems of nuisance and disorder not only in the immediate vicinity of these premises but also some distance away. In Revised Guidance, 'cumulative impact' is defined as the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative Impact Policies (CIP) may relate to premises licensed to carry on any licensable activity, including the sale of alcohol on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.
- 3 In some areas, where the number, type, or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. (Revised Guidance, paragraph 13.21).
- 4 Revised Guidance paragraph 13.29 sets out the steps to be followed when considering whether to adopt a special policy within the Licensing policy these include:
 - Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm.
 - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.

- If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
 - Identity the boundaries of the area where problems are occurring.
 - Consult with those specified by section 5(3) of the 2003 Act and subject to the outcome of that consultation, include and publish details of special policy in the licensing policy statement.
- 5 Having had regard to Revised Guidance and the existing situation in Westminster and to representations made by the Police and residents, the council considered it appropriate to propose special policies on cumulative impact which aim to limit growth of licensed premises in certain areas. These are three defined areas of the City referred to as the 'West End Cumulative Impact Area' , the 'Edgware Road Cumulative Impact Area' and the 'Queensway/Bayswater Cumulative Impact Area' .
- 6 The geographical pattern of violent crimes late at night has altered little over the past three years. While the West End Cumulative Impact Area successfully encapsulates the areas of the highest concentrations of these types of crimes at these hours, they do not include them all. The area around Charing Cross station and south of it showed high levels of crime reports. There was on this basis a case for examining proposals that this area be included in an extension to the West End Cumulative Impact Area. There are other areas where lower levels of concentrations of reports of violent crime persist. This is not to suggest that any level of violent crime is inherently acceptable. These areas are along the western stretch of Oxford Street, along Piccadilly, and around the Embankment Temple area and around Victoria Station.
- 7 The nature of these crime reports was considered in discussion with the police. The conclusion was that the level of crime in surrounding areas was generally lower than in the Cumulative Impact Area and was in many cases attributable to individual premises. It was considered that the existing problems in these

areas should be addressed by interventions from the police and other responsible authorities that are directed to problem premises to ensure their compliance with licensing conditions, the adoption of crime prevention and nuisance reduction initiatives and their recognition that if necessary responsible authorities will call for reviews of individual premises licences. The inclusion of these areas in the Cumulative Impact Area is not considered appropriate at this time but the council is committed to keep them under on-going review.

- 8 Further studies and advice were commissioned from a consultant who has considerable experience of conditions in various parts of Westminster from the collection of evidence in relation to appeals. He also has a wide knowledge of the night time economy and its relationship to crime and disorder. The conclusion of his study of areas of Mayfair and St James' s where there had been particular concerns expressed by residents was that the "...Problems of environmental stress encountered were qualitatively and quantitatively different from those I would expect to find in the WESA and Edgware Road Stress area. Isolated pockets of 'stress' were encountered in each area. These could be clearly identified as relating to particular premises" .²³
- 9 The conclusions from this data and from experience, taking into account the fact that the role of the licensing authority is limited to the promotion of the licensing objectives, recognising the effect that existing policies have had to date and that where necessary problems arising from individual premises can be dealt with by enforcement action, taking into account the role of other plans and policies (particularly planning policy), and finally having regard to

²³ St James' s Street South Molton Street- visit and analysis by Dr Philip Hadfield June 2007

the policies with respect to specific types of premises, particularly restaurants, it was determined that there should be no change to the existing Cumulative Impact Area boundaries. It was also determined that the Cumulative Impact Areas should not be extended to include the areas referred to above and that it is not necessary to introduce special geographically based policies to protect any specific areas outside the existing Cumulative Impact Areas.

- 10 As part of the review of this policy in 2015 the council has however committed to consider whether alternative measures, such as those described in paragraph 13.41 of Revised Guidance should be applied any area of the city, and has initiated consultation in that regard.

Size of the Cumulative Impact Areas

- 11 The Cumulative Impact Areas cover the following areas:

CUMULATIVE IMPACT AREAS	AREA (HECTARES)	PERCENTAGE OF CITY
West End Cumulative Impact Area	98.2	4.5%
Edgware Road Cumulative Impact Area	9.9	0.4%
Queensway/Bayswater Cumulative Impact Area	13.0	0.6%
Total Cumulative Impact Areas	121.1	5.5%
Total area City of Westminster	2,202.0	100.0%

- 12 The Cumulative Impact Areas in total therefore only account for 5.5% of the City' s total area of 2,202 ha.

Residential properties

	RESIDENTIAL PROPERTIES 2002	PERCENTAGE OF CITY
West End Cumulative Impact Area	4098	3.4%
Edgware Road Cumulative Impact Area	1300	1.1%
Queensway/Bayswater Cumulative Impact Area	2003	1.7%
Total Cumulative Impact Areas	7401	6.2%
Total area City of Westminster	119,000	100.0%

Numbers of licensed premises in the Cumulative Impact Areas

	Number of licensed premises	Percentage of total licences
West End Cumulative Impact Area	1005	32.1%
Edgware Road Cumulative Impact Area	56	1.8%

Queensway/Bayswater Cumulative Impact Area	111	3.5%
Total Cumulative Impact Areas	1172	37.4%
Total area City of Westminster	3134	100.0%

Data source: WCC Evaluation and Performance team October 2015

History/background to Cumulative Impact Areas

- 13 The Cumulative Impact Areas and the policies developed for both licensing and planning purposes have been evolved over a long period, as is detailed below. The policies using the Cumulative Impact Areas for licensing and planning purposes are now well established. The main steps in evolution are explained below.

Consideration of Guidance

- 14 The council decided to adopt special policies which identify areas of cumulative impact, which had been established through previous and current licensing and planning policies. Regardless of the fact that the council had established these areas of cumulative impact in its licensing policy before the Licensing Act 2003, it considered the steps now identified in Revised Guidance, paragraph 13.29.

Characteristics of Cumulative Impact Areas

In defining the Cumulative Impact Areas the principal causes of 'cumulative impact' were considered by the council to include the following aspects which are described below together with the licensing objective with which they are most closely associated:

(a) High levels of noise and vibration from premises and noise and disturbance from the very large numbers of people on the street on most nights during the week even when relatively well behaved (Public Nuisance).

(b) High levels of bad behaviour in public places, particularly at night though not exclusively so, can be characterised as anti-social, dangerous or criminal, much of it is associated with excessive drinking of alcohol, or drug-taking (Public Nuisance and Crime and Disorder).

(c) Numbers of pedestrians on footways which in places are insufficient to accommodate them safely and the spilling of crowds onto the roadway (Public Safety and Public Nuisance).

(d) High volumes of litter generated by fast food outlets and nightclub flyers which is a public nuisance and creates an atmosphere of disorder which is unwelcoming.

(e) The fouling of doorways, alleyways and streets, which in addition to being antisocial, has consequences for public safety and health (Public Safety and Public Nuisance).

(f) Considerable difficulty in providing, to an appropriate standard, street cleaning, refuse collection and servicing of commercial and residential premises (Public Nuisance).

(g) Traffic congestion late at night caused by the dropping-off and picking up of people visiting entertainment uses (Public Nuisance).

(h) The perceptions of residents, workers and visitors that conditions in parts of the areas concerned threaten their personal safety (Public Safety).

The development of Cumulative Impact Areas as special policies as referred to in Revised Guidance paragraph 13.24 to 13.39

1. The City's 1982 District Plan included Policies²⁴ intended to balance the particular case for entertainment and similar uses against residential amenity, the character of an area, and its functioning.
2. In 1993 and 1994²⁵ parts of Soho and the Edgware Road were designated as Stress Areas where priority was to be given to enforcement action in relation to breaches of planning and licensing controls.
3. The planning policy framework of the adopted Unitary Development Plan²⁶ was intended to prevent entertainment uses which would involve loss of local shops and services; increased traffic congestion; loss of residential amenity, or injury to the character of an area. It also intended to limit the development of entertainment uses in Covent Garden that were not on a designated 'entertainment route'. By the early 1990s, there were already concerns from residents' groups that the policies were insufficient to protect residential amenity.

²⁴ City of Westminster, 1982 District Plan, Policies 7.37 and 7.45

²⁵ City of Westminster Reports to Committee

²⁶ City of Westminster 1997 Unitary Development Plan. Policy THE8

4. The Report "A Good Night Out" was published in 1998 by the Central Westminster Police Community Consultative Group,²⁷ dealing with the consequences of the large increase in the numbers of licensed premises in Soho and Covent Garden. This drew attention to a wide range of matters including anti-social behaviour, noise and vibration, street refuse, street fouling, and air quality. The report made recommendations to the council about actions it should take to deal with these problems. Businesses in Edgware Road petitioned the council in 1999 expressing similar concerns about declining conditions in that area. The council received a petition, also in 1999, signed by over 600 local residents expressing concern about the decline in the amenity of the centre of the city arising from the increasing numbers of entertainment uses.

5. In response to these various concerns the council published a report in 1999 sent to some 800 individuals and organisations and held a seminar to which some 150 were invited seeking views on the policy options open to the authority in regulating entertainment uses in the city. The options included designating 'quiet enclaves' in parts of the West End; identifying 'entertainment routes where such uses should be concentrated; identifying 'saturation' areas where additional entertainment capacity would be strictly controlled; greater use of conditions limiting usage of entertainment premises.

6. In the early part of 1999, the council carried out informal consultation on the Unitary Development Plan. This covered many of the issues referred to in (4) above.

²⁷ Central Westminster Community Consultative Committee 1998 'A Good Night Out'

7. Two Soho residents' groups published a report²⁸ in 2000 about licensing reform, drawing further attention to the extent of noise nuisance; street fouling; threats to public safety; anti-social, dangerous and criminal behaviour in the street; and changes to the character of the parts of Central London, which had led to a major deterioration in amenity conditions in the area.

8. Relevant council committees considered the outcomes of the 'Good Night Out' consultation and the replacement UDP consultation on several occasions in the first half of 2000. Arising from these meetings the council agreed new interim development control policies for Planning and a new Licensing Policy.²⁹ The policies agreed included Stress Areas covering areas where 'saturation' with entertainment uses/ licences had been reached.

9. The publication in October 2001 of a consultant's report³⁰ commissioned by the council, and advising on recent structural changes which had taken place in the entertainment industry locally, reviewing policy and practice in other large cities, and advising on likely future trends in Westminster.

10. At its meeting in October 2001, the council's Cabinet reconsidered the Stress Areas for planning purposes. The Stress Area boundaries were modified in the form of extensions and reductions in size better reflecting up to date local circumstances. These boundaries were then modified for Licensing purposes on 21 January 2002.

²⁸ Soho Society and Meard and Dean Street Residents Association 2000
'Nessun Dorma'

²⁹ City of Westminster 2000 Entertainment and Night Café Licensing Policy Guidelines

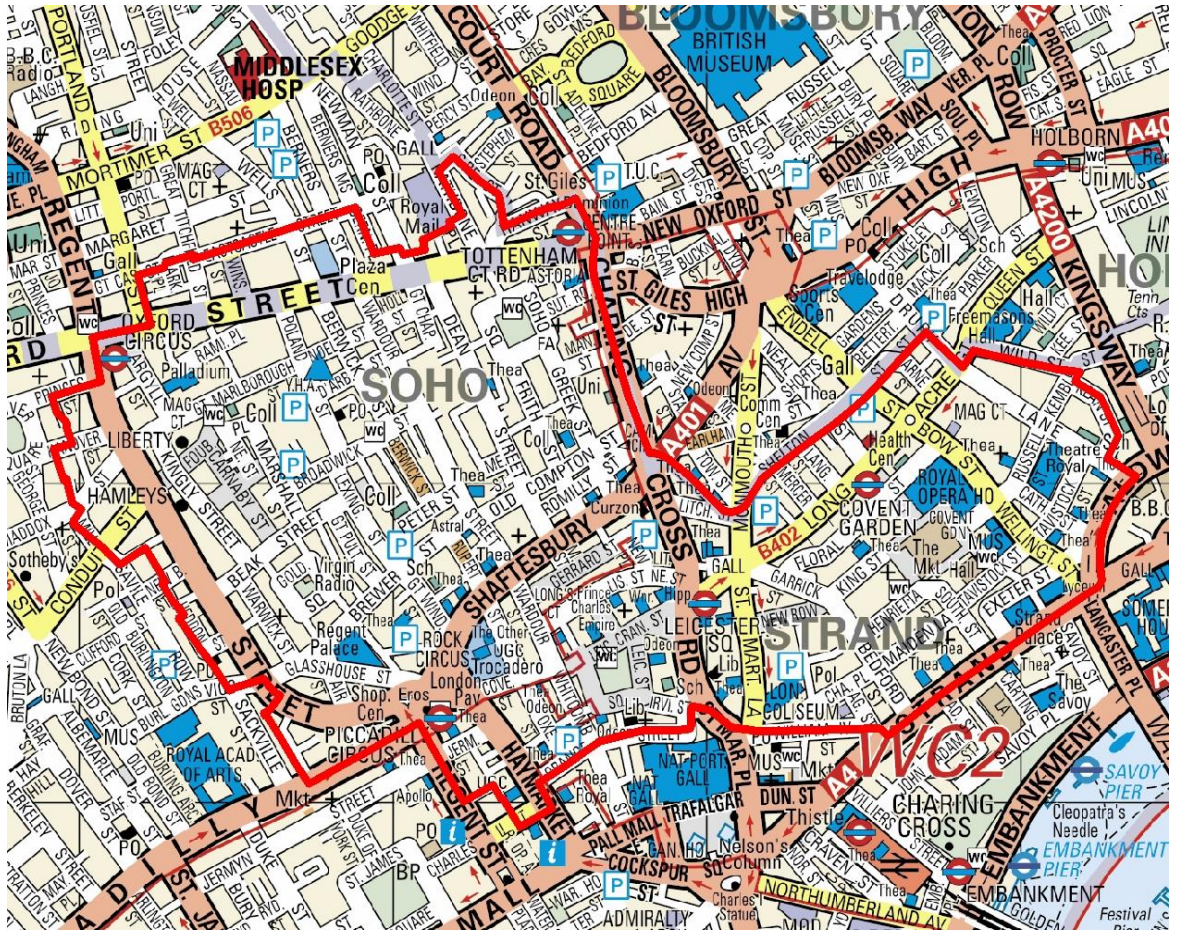
³⁰ Town Centres Ltd, 2001 'West End Entertainment Impact Study'

11. The inspector at the Unitary Development Plan local plan inquiry agreed that there was a clear and present problem of disorder in the Stress Areas and that unrestricted growth of entertainment uses in them is a threat to the tourist, artistic and cultural standing of London because of fear caused by disorder. He recommended the development of criteria based policies to take into account the characteristics of premises. He did not recommend any changes to the Stress Area boundaries.

12. Since the adoption of the statutory statement of licensing policy under the Licensing Act 2003 the council continues to monitor factors relating to cumulative impact, both as part of its operational intelligence and policy review purposes.

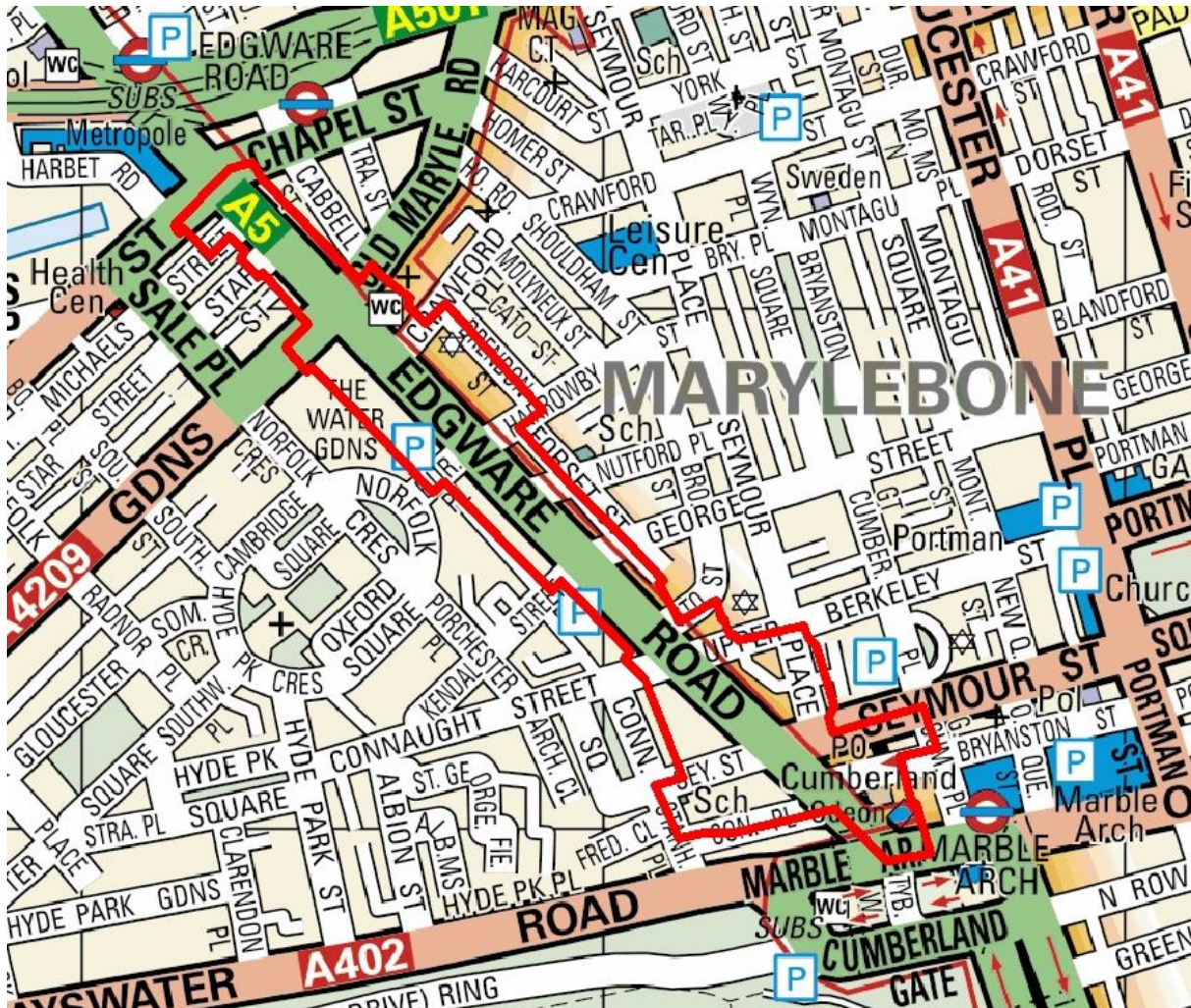
Appendix 15 - Cumulative Impact Area Maps

West End



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Edgware Road



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Queensway/Bayswater



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Contacts

Information on the various aspects of the licensing process and policy can be obtained from the following bodies:

Team

Address: 64 Victoria Street, London, SW1E 6QP

Telephone: 020 7641 1721/3179

Fax: 020 7641 2436

Information on licensing:

Licensing Process Team
Westminster City Council
Address: 64 Victoria Street,
London, SW1E 6QP
Licensing Helpline:
Telephone: 020 7641 8549

Information on environmental health, safety and noise:

Premises Management
Westminster City Council
Environmental Health
Consultation Team
Address: 64 Victoria Street,
London, SW1E 6QP
Telephone: 020 7641 3161
Fax: 020 7641 3436

Information on licensing enforcement and crime prevention:

Westminster Police
Westminster Police Licensing

Information on crime and disorder reduction:

Crime and Disorder Reduction Partnership

Westminster City Council

Crime & Disorder Reduction

Team Address: 64 Victoria Street, London, SW1E 6QP

Telephone: 020 7641 1038/2103

Fax: 020 7641 1221

Email: communitysafety@westminster.gov.uk

Information on licensing regarding children and families:

Social and Community Services- Children and Families

Westminster City Council

Head of Commissioning -

Child Protection & Quality

Address: 4 Frampton Street, London NW8 8LF

Telephone: 020 7641 7668

Fax: 020 7641 7672

Information on planning applications:

Development Planning Services Westminster City Council

Address: 64 Victoria Street, London, SW1E 6QP

Central Area Team (W1 addresses):

Telephone: 0207 641 2514/2927

Fax: 0207 641 3158

South Area Team (SW1, SW7, WC2, EC4 addresses):

Telephone: 020 7641 2977/2681

Fax: 020 7641 2339

North Area Team (W2, W9, W10, W11, NW1, NW8 addresses):

Telephone: 020 7641 2924/2017

Fax: 020 7641 2338

Planning Enforcement Team (all post-codes):

Telephone: 020 7641 8956

Information on Special Events:

Special Events Team

Westminster City Council

64 Victoria Street, London SW1E 6QP

Telephone: 020 7641 2390

Fax: 020 7641 2640

Email: speciale@westminster.gov.uk

Information on fire safety and licensing requirements:

London Fire & Emergency Planning Authority

Address: 156 Harrow Road, London, W2

6NL

Telephone: 020 7587 2300

Email: info@london-fire.gov.uk

Further information about the Licensing Act 2003 and Guidance issued under section 182 of the Act can be obtained from the Home Office at:

Home Office

Direct Communications Unit

2 Marsham Street

London SW1P 4DF

General Enquiries:

Telephone 020 7035 4848

Email:

public.enquiries@homeoffice.gsi.gov.uk

Note: This contacts list was correct at the time of printing and may change over a period of time.

www.westminster.gov.uk/licensing

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